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SERIES OF LETTERS,

ADDRESSED TO

THOMAS JEFFERSON, Esq.

PRESIDENT OF THE UNITED STATES,

CONCERNING

HIS OFFICIAL CONDUCT AND PRINCIPLES:

WITH

AN APPENDIX,

OF

IMPORTANT DOCUMENTS

AND

ILLUSTRATIONS.

BY TACITUS.

PHILADELPHIA:
FOR E. BRONSON, PRINTED BY THOS. SMITH.
1802.

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A

SERIES OF LETTERS.

LETTER I.

To THOMAS JEFFERSON, *Eſquire, President of the United States.*

SIR,

AFTER the ſoothing language uttered by you, in your inaugural addreſs, on the 4th of March laſt;—after your invitation to your fellow citizens to unite with you, with one heart and one mind, in reſtoring to ſocial intercourſe that harmony and affection, without which liberty, and even life itſelf, are but dreary things;—after propoſing to baniſh from our land political intolerance, which, if not diſcountenanced, might prove as deſpotic as wicked, and capable of as bitter and bloody perſecutions as thoſe heretofore inflicted on mankind by religious intolerance;—after having aſſumed a portion of blame for having called by different names brethren of the ſame principles;—after ſtating that we are all republicans, we are all federaliſts;—and after acknowledging that our government had proceeded ſo far in the full tide of ſucceſsful experiment, and had ſo far kept our country free and firm, had any individual ventured to predict, that you would ſhortly be ſeen acting in direct violation

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of the principles and propoſitions then brought forward by yourſelf; that even whilſt thoſe honied terms were flowing from your tongue, you were probably meditating the eſtabliſhment of that political perſecution and intolerance which you then diſclaimed; that even in the high and honourable ſtation to which you were called, you would be found capable of belittleing yourſelf ſo far, as to attempt to ſtigmatize, by odious denominations, that reſpectable portion of your fellow-citizens uſually deſignated as federaliſts, to the happy reſult of whoſe exertions you were then conſtrained, by the notoriety of circumſtances, to bear the moſt public teſtimony, and under whoſe general deſignation you ſeemed anxious to withdraw from the public recollection the odium juſtly attached to the oppoſition which had been made to thoſe exertions,—had, I ſay, any individual ventured to predict theſe things, he would, without queſtion, have incurred the imputation of illiberality, nay, of malignity towards you. Yet, what has the courſe of a few revolving moons brought to view? Not only a practice upon the reverſe of the principles then vainly and illuſorily held up, but a public avowal of that reverſe, and an open attempt to ſtigmatize, as a *political ſect*, thoſe whoſe counſels had prevailed in the adminiſtration of our government, previous to your preſent elevation, and to whom muſt conſequently be attributed the important advantages, whatſoever they be, which, by your own acknowledgement, have been derived to our country and government. The frequent removals of men of the utmoſt reſpectability from official ſtation,—of men whoſe ſervices to their country, in times the moſt trying, your predeceſſors in office had thought worthy of remuneration, if in official ſtation that remuneration could be found,—of men whoſe diligence, ability, and punctuality in the diſcharge of their official du-

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ties had left you no aſſignable cauſe for their removal, ſave the exerciſe of that independence of ſentiment which eſſentially diſtinguiſhes the citizens of a free government from the ſlaves of deſpotic power,—theſe occurrences, I ſay, ſir, were ſufficient, without other proof, to evince your practice upon the reverſe of your principles of the 4th of March: your anſwer to the remonſtrance of the merchants of New-Haven ſtands, and will forever ſtand, a monument of your public avowal of that reverſe; of your political intolerance, and of your unaccountable inconſiſtency.

To ſtigmatize others as a *political ſect*, and conſequently as deviating from the principles eſſential to rational and free government, can belong only to thoſe who are correct themſelves. You, ſir, in a public and honourable ſtation, have aſſumed the authority of making that denunciation, and conſequently have ſet yourſelf up to the examination of others. To thoſe who beſt know the importance of the powers of government in the affairs of mankind, and how eſſential the appearance of public reſpect for thoſe in authority "*is to the ſucceſsful exerciſe of that authority*" nothing more unpleaſant could have occurred. Of the diſpoſition of the federaliſts to render that reſpect in decent degree, to whomſoever the voice of their country, or *the forms of the conſtitution might enounce* for the important ſtation of chief magiſtrate of the union, you, ſir, had the beſt grounds of aſſurance, from the uniform tenor of their conduct, and from their avowed principles, favourable to order and good government. In addition to theſe grounds, you had, ſir, the formal aſſurance of that reſpectable body of men, the ſenate of the United States, conſiſting principally of well known federaliſts, in terms probably going beyond what ſtrict propriety might have authoriſed, but which, in that very circumſtance, evinced their laudable diſpoſition to

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bury in oblivion many things that had paſſed, and to promote conciliation and harmony for the future. This, ſir, be aſſured, was alſo the diſpoſition of thoſe who compoſed what was called the federal part of the late houſe of repreſentatives of the United States. Was then your denunciation of *political ſectariſm* intended as an experiment to try the extent of that diſpoſition, and to provoke that examination which, if ſtrictly made, you yourſelf, ſir, are the beſt judge, whether it can conduce to your honour or reſpectability?

You well know the ſtyle, ſir, of the ancient oath of allegiance uſed in the kingdom of Arragon,—— "We, who are as good as you, make you our king, on condition that you keep and obſerve our privileges and liberties; and if not, not."—You know that the ſenate of the United States annexed to their aſſurance of conſtitutional ſupport, as an indiſpenſible proviſo, that your official conduct ſhould be directed to the honour and intereſt of our country: and you know, whatever aſſurances may be given by others, that this is a condition annexed by natural juſtice, which, ſo long as your fellow-citizens ſhall poſſeſs any ſentiments of rational freedom, (as well thoſe who, from honourable motives, favoured your elevation, as thoſe whom you have denounced as a *political ſect,*) they will expect to be fulfilled. Was then this political perſecution of meritorious officers, for the exerciſe of that independency of ſentiment which characterizes freemen? Was this political intolerance which has denounced, as a *political ſect,* thoſe by whoſe councils, labours, and ſupport our government has thus far proceeded in the full tide of ſucceſsful experiment, and our country has been ſo far kept free and firm, directed either to the honour or the intereſt of our country? Is your conduct juſtified in theſe reſpects by the examples of your predeceſſors?

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In every act of the administration of General WASHINGTON, he sought the happiness of his fellow-citizens. His uniform system for the attainment of that object was, to overlook all personal, local, and partial considerations; to contemplate the United States as one great whole; and to consult only the substantial and permanent interests of our country. In all his appointments to office, he sought for those whom he hoped most likely to promote those interests: he disdained the idea of making that portion of his official authority subservient to personal views, to the provision of props for the continuance and support of his individual power, or for the promotion of the confined views of party. He was, indeed, sometimes disappointed in his expectations on behalf of the public; and, unworthily treated as the federalists have been, can it be any harm to ask, of what political sect were those generally who contributed to that disappointment?

Mr. ADAMS, previous to the late presidential election, and whilst he was marked by your adherents as the object of calumny upon this very subject, has been heard to recount the various instances of dismissal which had at that time taken place during his administration, and you, sir, by whom his talents and integrity have been so long known and revered, by whom a cordial friendship has been so long entertained for him, will not surely venture to charge him with wilful falsehood, when he declared, that none of those dismissals had been made upon party considerations:—You will not, surely, charge him with insincerity, when he disclaimed and reprobated every use of the presidential power, in relation to dismissal from office, for party purposes. In his selection of those who were to supply the vacancies that occurred, it is probably true, that he generally, though not universally, preferred men of political sentiments

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different from thoſe whom he had moſt frequently ſeen to diſappoint the expectations of his predeceſſor, and whom he had found moſt frequently to deceive himſelf. Had you, ſir, in theſe reſpects, without aiming at the ſublime model of WASHINGTON, even taken the example of your immediate predeceſſor for your guidance, we ſhould never have heard complaints that officers of federal principles would *neither die nor reſign*: we ſhould not have ſeen officers who had honourably and bravely ſerved their country in the field, and who, in remembrance of that ſervice, had been advanced to ſtations in the civil line, where an equally honourable fidelity and punctuality had marked their conduct, diſmiſſed from thoſe ſtations, to the infinite diſtreſs of themſelves and families, upon *avowed party conſiderations*. In relation to the heads of departments, who are conſidered as the immediate council and aſſiſtants of the preſident, whilſt he himſelf remains reſponſible for the reſult of the meaſures of his adminiſtration, there can be no doubt but the preſident is and ought to be authorized, under his general conſtitutional reſtriction, to ſeek the aid of thoſe in whom he has the greateſt confidence, and conſequently to make diſmiſſals from thoſe ſtations, whenever he conceives he may derive more important aid by the ſubſtitution of others. Such diſmiſſals, therefore, ſimply of themſelves, and independent of other circumſtances, ought not to caſt a diſhonourable imputation upon the diſmiſſed, or to ſubject the preſident to complaint or cenſure. Conſiſtently with the example of Mr. ADAMS, you might have ſupplied theſe ſtations with thoſe whom you thought moſt capable of giving you aid in the purſuit of the honour and intereſt of our country. In doing this, you would not have been blamed for diſmiſſals, nor have incurred the diſſatisfaction of any part of your countrymen, in ſupplying vacancies, had you

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confined your ſelection to *native and original citizens*, thoſe who ſhared in the eſtabliſhment of *the original independence* of our country. But can it be for the honour or intereſt of our country on ſuch an occaſion to have ſelected as one of your chief counſellors a foreign adventurer, whoſe reſtleſs diſpoſition, during his limited reſidence in our country, had already compelled him to have recourſe to preſidential amneſty, after having been engaged in fomenting an inſurrection againſt the government, which coſt our country, in treaſure alone, upwards of twelve hundred thouſand dollars? The rigid patriotiſm of Mr. ADAMS was an effectual ſecurity againſt a degrading error of that ſort.

In your diplomatic appointments you might, without objection, have ſought for thoſe whom you conſidered as concurring with you in your ideas of our foreign relations; but in doing this, it would have been well to have ſelected men, whoſe moral characters would have done no diſcredit to their official ſtations. Charity leads to hope there would have been no difficulty in finding ſuch.

In the inferior ſtations of office, a ſtrict ſcrutiny might have been inſtituted, and wherever delinquency, incapacity, or moral depravity ſhould be found, you would have incurred the diſſatisfaction of no federaliſt by exerciſing your power of diſmiſſal and ſupplying the vacancies occaſioned thereby, with whomſoever you pleaſed of *native or original* citizens of decent and reſpectable characters. But where neither delinquency, nor incapacity, nor moral depravity could be found, you ought ſurely to have waited with patience yourſelf, and to have endeavoured to inculcate into your greedy expectants the neceſſity of that patience, for *the death or reſignation* of thoſe who blameleſsly performed their duties. Adopting

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the ſentiments of Governor CLINTON, in his better days, you might have ſaid to them,

"The conſtitution implies that all offices, the duration of which is not particularly aſcertained, ſhall be held during the pleaſure of the preſident. By the pleaſure of the preſident is intended, in my opinion, *not a capricious arbitrary pleaſure*, but *ſound, rational diſcretion, to be exerciſed for the public good:* a contrary doctrine renders the *conſtitution unſafe, and its adminiſtration unſtable*, and whenever parties exiſt, may tend to deprive men of their offices, becauſe they have *too much independence of ſpirit to ſupport meaſures* which they ſuppoſe *injurious to the union*, and may induce others, from an undue attachment to office, *to ſacrifice their integrity to improper conſiderations.*" And, ſir, you might have added in the ſame ſpirit, that ſuch would be the higheſt abuſe of power, not only in relation to the juſtice due to individuals, but in relation to the purity and freedom of ſuffrage, the fundamental principle of republican government: that ſuch abuſe would be not only worthy of the general excration of your countrymen, but ought to incapacitate whoever ſhould be guilty of that abuſe, for ever after to hold and enjoy any office of honour, truſt, or profit under a government deſerving the name of free or republican.

By adopting a courſe of this ſort, you would have conciliated the affections of the reſpectable of every denomination, and ſaved our country from the miſchiefs that muſt flow from the courſe now purſued, as well as from the humiliating circumſtance of beholding the government of New-York abandoning its former honourable principles, and juſtifying itſelf in that abandonment by your arguments and example.

Are you juſtified in this courſe, by the declaration of your friends? Whilſt your enunciation, ſir, was yet in fieri, and the conteſt between you and Colonel

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BURR was undecided, there is good authority for asserting, that it was not unfrequently urged, by some of those who stood forth the advocates of your elevation, to those who thought Colonel BURR more worthy of of the first station, that if the latter wished to see the government of the United States administered upon principles such as those of which a specimen had been given in the state of Pennsylvania by Governor M'KEAN, they ought to persist in the preference of Colonel BURR, whose violence of character was represented as bearing a strong resemblance to that of Governor M'KEAN. But if they wished to see the government of the United States administered upon mild and conciliatory principles, free from every thing like a proscription of officers upon party considerations, they ought to desist from the support of Colonel BURR, and accede to the preference of Mr. JEFFERSON, whose character was represented to be made up of moderation and kindness, precluding every idea of such proscription. These declarations are believed to have been sincerely made, under an impression of their truth, by those who loved their country, who wished to cherish its peace and harmony, and who had no idea of giving countenance to such a course of proscription. Many such there are without question, sir, amongst those who were your friends and adherents; but what must be their disappointment and chagrin on witnessing the course which you have taken, and deliberately avowed your determination to persist in? Is it in the nature of the old soldier (for some of these you had among your friends,) whatever may be his political sentiments in the mottled confusion of our politics, produced by calumny and misrepresentation, to wish his fellow-soldier, who asserted with him, in the field, the independence of his country, and whom he saw placed in a situation to exempt him from penury, whilst he

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ſtill rendered valuable ſervice to that country, caſhiered without default, and turned at large with a wild and pitileſs world before him? Would it be a juſtification, in his judgment, if informed, that there are *uneſſential differences of opinion* grown up between them? Differences of opinion, he would reply, *if uneſſential*, as you repreſent them to be, deſerve to be eſſentially deſpiſed and diſregarded. Would it be an equivalent in ſatisfaction to him to be informed, that the vacancy occaſioned by the removal of one was to be ſupplied by the ſubſtitution of another of his old comrades in arms? The circumſtance might poſſibly cauſe him to pauſe for a moment; and had the vacancy occurred in the natural courſe of events, might have given him unalloyed joy; but, reflecting, he would ſoon reply, in the ſimple honeſty of his heart, without the aid of counſel, "in *æquali* jure, *potior est conditio poſſidentis*." The merits of the one cannot juſtify the infliction of unmerited diſtreſs on the other. If he be indeed a republican, when he ſhall diſcover that this infliction of diſtreſs is directly levelled againſt the fundamental principles of the government he loves, what muſt be his indignation?—Are you, ſir, juſtified in your political intolerance by the preponderance of the public ſentiment in your favour? The public ſentiment is the reſult of the combined ſentiments of individuals. No individual, ſurely, can be found ſo vain as to aſſert his own infalibility. If each and every man be liable to deception and error, the public ſentiment, then, though aiming to be right, and though reſpectable even in its errors, may nevertheleſs ſometimes be wrong, and "how ſhould it be otherwiſe," exclaimed the ever to be venerated WASHINGTON, at a former period, in the depth of his ſolicitude for our welfare, "when no ſtone has been left unturned to impreſs on the minds of the people the moſt arrant falſe-

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hoods?" But be not deceived: the public ſentiment cannot long continue in error: the people of the United States love their country and government, and whatever may be the ſtrength of the preſent deluſion, with whatever art that deluſion may be foſtered, ſo ſoon as a tendency in the principles and attachments of thoſe who now plume themſelves on the public favour ſhall be clearly ſeen, and practically evinced, as leading to the deſtruction of the energy of the government, and conſequently to internal anarchy and confuſion, or to the proſtration of our national dignity, and the ſacrifice of our independency to the all devouring ambition of a foreign nation, the great body of the people will recollect the admonitions of their beloved WASHINGTON, that *the tools and dupes of foreign influence* may ſometimes *uſurp their applauſe and confidence to ſurrender their interests*, and they will return to *their own federal and republican principles*. Matter, it is hoped, ſhall as ſoon ceaſe to gravitate as the great body of the people of the United States ſhall ceaſe to cheriſh the independence and ſelf government of their country.

Thus purſuing a courſe of political perſecution and intolerance inconſiſtent with your own principles and profeſſions, as proclaimed in your inaugural addreſs, irreconcilable with the honour and intereſt of our country, not juſtified by the examples of your predeceſſors, diſapproved of by the anticipations of thoſe who advocated your *enunciation* as preſident, and attempted to be ſcreened only by a paſſing cloud of public deluſion, is that reſpect, which all good men wiſh to ſee deſerved by, and paid to thoſe in authority, to be expected by you, in return for ſuch conduct? The federaliſts, juſt greeted as brethren, are inſulted with the title of a *political ſect*, as if they were heretics deviating from the true faith, by the

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chief magiſtrate of the union, in a public tranſaction! Thoſe who think with you, ſir, or without knowing your real ſentiments and principles, have been deluded into a ſupport of you, are to be deluſively held in that ſervice, by being taught to believe, that they are the only orthodox, and yourſelf the great chief of political orthodoxy!—Whatever might be the extent of federal tolerance, did you even expect a ſilent ſubmiſſion to ſuch indignity? The patience of Job was at length teazed into a reply, and that not without tartneſs. Amid the admonitions of the mild and benevolent Author of the Chriſtian ſyſtem, of which it ſeems you have in theſe latter days become a great admirer, you might have found the following uſeful caution.

"Judge not, that ye be not judged: for with what judgment ye judge, ye ſhall be judged, and with what meaſure ye mete, it ſhall be meaſured to you again. And why beholdeſt thou the mote in thy brother's eye; but conſidereſt not the beam that is in thine own eye? Or how wilt thou ſay to thy brother, let me pull out the mote out of thine eye? And behold! a beam is in thine own eye!"—Should further inſtruction be deſired, the original paſſage muſt be referred to.

After the political intolerance ſhewn by you, be not ſurprized, ſir, if, in return, you ſhall find your political principles brought to the ſtandard of the conſtitution, and there teſted by reaſon and the reſult of experience;—be not ſurprized, if you ſhall find the conduct of yourſelf and of thoſe with whom you have been intimately connected, in oppoſition to the paſt adminiſtration of the government of our country, recalled to the public conſideration, and expoſed in new points of view:—be not ſurprized if an inquiry ſhall be made, what would probably be our preſent condition had the wiſhes of thoſe who now boaſt the

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public ſentiment in their favour, been conſulted?—What would be that condition had the counſels of thoſe, who now aſſume to themſelves unerring political orthodoxy, been adopted in the difficult criſes through which we have paſſed? That our government has proceeded in the full tide of ſucceſsful experiment,—that our country has been thus far kept free and firm, in deſpite of a perſevering oppoſition, in deſpite of internal inſurrection, and in deſpite of foreign hoſtility, encouraged, if not invited, from within, is the boaſt of federaliſm: nor can the malignity of the denunciation of political *ſectariſm* obliterate theſe facts, nor will the confeſſion of theſe facts, extorted, as it has been, by their own notoriety, ceaſe to be remembered by the virtuous citizens of the United States, when the miſts of preſent deluſion ſhall have paſſed away.

With the homage of all due reſpect,

I am, Sir,

Your fellow-citizen,

TACITUS.

LETTER II.

To THOMAS JEFFERSON, *Eſquire, Preſident of the United States.*

SIR,

HAVING addreſſed you concerning the inconſiſtencies which appear between the principles and profeſſions exhibited in your inaugural addreſs of the 4th of March laſt, on the one hand, and your ſubſequent conduct and avowals, on the other; and hav-

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ing referred you for admonition to a ſource, from the tenor of which you may poſſibly apprehend, that with what meaſure you have meted unto others, it may be meaſured unto you again, I am aware that you are ready to exclaim,—Behold! "An ocean of calumny, "under which it has been thought expedient to en- "deavour to overwhelm my name." (*a*) I am aware, that to ſuch exclamation, thoſe who have been prepared to ſacrifice the Conſtitution, the union and the peace of our country to your excluſive elevation, will be ready to give all the weight and currency which are due to the complaints of injured and unoffending merit. But however your conduct may have juſtified a reſort to the principles of retaliation, your example will not be adopted as the rule and meaſure of the animadverſions which are propoſed to be ſubſequently made upon your principles and conduct. The principles and conduct of individuals, in their private relations, are improper ſubjects for public diſcuſſion; but the principles and conduct of public men, as connected with their public relations, which may materially affect important public intereſts, are ſurely fair objects of free inquiry. Conſidering the high ſtation, in which you ſtand, your political principles and conduct cannot be a matter of indifference to thoſe, who feel a juſt anxiety for the moſt important intereſts of our country. It is not to you therefore in your individual capacity; but to you as Chief Magiſtrate of the union, that the preſent addreſs is made. This addreſs you will perceive to be intended as a commencement of an examination of the political principles and conduct of yourſelf, and of others, connected with you in your political career, as manifeſted in various

(*a*) See a letter from Mr. JEFFERSON, of the 9th of March, 1801, to a compiler of a *Dictionary of Elegant Essays*, in the Washington Federalist of July 22, 1801.

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public, and well authenticated tranſactions. This examination, to uſe your own language, *will be proceeded in with deliberation and inquiry*, not however for the purpoſe of doing injury to any man, and ſtill leſs of doing injury to *the best*; but ſimply for the purpoſe of diffuſing truth—of *arraigning at the bar of public reaſon*, principles of dangerous tendency, and of unmaſking pretended patriotiſm, "gilding its deſigns with the appearances of a virtuous ſenſe of obligation, a commendable deference for public opinion, or a laudable zeal for public good," in order that it may more ſecurely uſurp the applauſe and confidence of the people, and then ſeize on for itſelf, or ſurrender to others, their deareſt intereſts.

General charges and harſh imputations, unſupported by clear and ſpecific facts, evince the ſpirit of their authors, and not the guilt of thoſe who are cenſured. You, Sir, in a letter bearing date at Paris, Nov. 18, 1788, which has ſince been publiſhed in a defence of your political character, were pleaſed to uſe the following words—"I know there are ſome among us "[meaning the people of the United States] who "would now eſtabliſh a monarchy; but they are in-"conſiderable in number and weight of character." (*b.*) In a note from you, addreſſed to your preſent confidential Printer, accompanying a copy of Mr. Paine's Rights of Man for republication in America, you were pleaſed to expreſs yourself in the following words,—"I am *extremely pleaſed*, to find it will "be reprinted here, and that ſomething is at length "to be publicly ſaid againſt the political hereſies "which have ſprung up among us." (*c.*) In your inaugural addreſs of the 4th of March laſt, you were

(*b.*) See the National Gazette, September 29, 1792.

(*c.*) See an extract of this note prefixed to Paine's Rights of Man, by Samuel H. Smith, in 1791.

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pleaſed to ſay—"If there be any among us, who "would wiſh to diſſolve this union, or to change its "republican form, let them ſtand undiſturbed as mon- "uments of the ſafety with which error of opinion "may be tolerated, where reaſon is left free to com- "bat it." Why theſe general charges, if true? Whence this diſpoſition "*ambiguas in vulgum ſpargere voces*"—to ſcatter cenſure, without ſpecification, among the ignorant? If, Sir, you *know* theſe things, as you aſſert you do; is it not your duty, publicly to point out the individuals, and to ſpecify the overt acts, with all the incidents of time and place, neceſſary to fix the treaſonable deſign? Thus that juſtice, which is due to all, might be fully effected: the innocent would ſtand free from all ſuſpicion, and the guilty would be deſignated, if any ſuch there be, as monuments, againſt which that public indignation might be levelled, which you now, by pretended forbearance and promiſcuous cenſure, endeavour to excite againſt all who refuſe to become the ſervile inſtruments of your views and deſigns. In ſo long declining to perform this duty, if in your power, are you not, in fact, guilty yourſelf of miſpriſion of treaſon againſt thoſe very liberties of the People, for the ſafety of which you expreſs ſuch extraordinary anxiety? Is this declination to be attributed to humanity and benevolence? Or is the charge itſelf to be attributed to a Tartar-like ſpirit, which conceives itſelf entitled to be adorned with all the virtues and great qualities of thoſe, whoſe reputations it ſhall have previouſly murdered and deſtroyed? On this point, Sir, I ſhall not attempt a deciſion, though the courſe of my enquiries may probably furniſh to others ſatisfactory means of making that deciſion. Wholly diſregarding, Sir, your example, I ſhall at all times endeavour ſo to conduct my enquiries, through the aid of ſpecific facts and references, as to exclude, all poſſibility of injury

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from promiſcuous, indeterminate, or unwarranted animadverſion.

Is it for this, that a cry of "*an Ocean of Calumny*" is to be raiſed in every vain anſwer to every fulſome addreſs of ſycophantic adulation? Have you not, Sir, yourſelf ſanctioned "the diffuſion of information, and arraignment of all abuſes at the bar of public reaſon"? (*d.*) If then, in *the diffuſion of information*, dangerous principles and reprehenſible conduct ſhall be unveiled, and pain ſhall be felt, when thoſe principles and that conduct ſhall be "arraigned at the bar of public reaſon," ſhall thoſe, to whom thoſe principles and that conduct ſhall be found to be fairly attributable, foreſtal the public ſympathy by their anticipations of well-deſerved animadverſion? And ſhall thoſe, who arraign thoſe principles and that conduct at the bar of public reaſon, for the public good, incur the public indignation, becauſe the pain of conviction ſhall be felt in conſequence of the diffuſion of information? The good ſenſe and the juſtice of the American People never can ſanction ſuch injuſtice, however high may be the eminence, from which the bolt of that injuſtice may be launched.—Shall thoſe who, from diſappointment or malice, have heretofore collected loads of obloquy and heaped them upon the firſt worth of our country, (*e*) ſhall

(*d.*) See Mr. JEFFERSON's inaugural addreſs of March 4, 1801. Appendix No. 14.

(*e*) "I view the oppoſition which the treaty is receiving from the meetings in different parts of the union in a very ſerious light: not becauſe there is more weight in any of the objections which are made to it than were foreſeen at firſt; for there are none in ſome of them and groſs miſrepreſentations in others; nor as it reſpects myſelf perſonally; for this ſhall have no influence on my conduct, plainly perceiving, and I am accordingly preparing my mind for, the obloquy which diſappointment and malice are collecting to heap upon my character."—*Extract from a letter of General* WASHINGTON *to Mr.* RANDOLPH, *July* 29, 1795. See RANDOLPH's vindication, p. 35.

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thoſe, who have marſhaled every engine of detraction againſt that worth, be the firſt to raiſe a Hue and Cry on ſuch an occaſion? True it is, ſuch Hue and Cry may be raiſed without any wider departure from conſiſtency, than what has already been exhibited in a variety of inſtances; but ſhould it be raiſed, thoſe, who may be diſpoſed to join in the cry, are entreated to recollect, what would be the proper anſwers to the following inquiries?

Who was it that painted, to citizen GENET, certain characters, (obviouſly the principal characters, with General WASHINGTON at their head, who were uprightly and zealouſly engaged in the adminiſtration of the government of our country, and in the preſervation of the public peace in the year 1793,) as "*ariſtocrats*,"—as "*partiſans of monarchy*,"—as "*partiſans of England*,"—and as "*enemies of the principles of republicaniſm?*" Who was it that painted them, or ſome of them, as "*aſpiring to an abſolute power*" and *initiated citizen* GENET *into myſteries*," in order "*to inflame his hatred againſt them*," in conſequence of the colouring then given to their characters? (*f*)

Who was it, that when ſecretary of ſtate of the United States, retained, as a clerk in his office, an editor of a newspaper, whoſe conſtant practice it was to uſher to the public view the moſt virulent, abuſive, and calumnious publications againſt General WASHINGTON, then preſident of the United States, and all who, *(without ſpeaking in one way, and acting in another; without holding an official language and a language confidential,)* ſincerely concurred in ſupporting his adminiſtration, whilſt ſteering the veſſel of ſtate in that difficult criſis, between the rocks of

(*f*) See Citizen GENET's letter to Mr. JEFFERSON, September 18, 1793. Appendix, No. 3.

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Scylla, on the one hand, and the whirlpools of Charybdis on the other? (*g*)

Who was it who wrote a famous letter to MAZZEI, in which all thoſe calumnies were collected and concentrated, not without ſome of *the ſpecific expreſſions* of VERITAS, who led the way amongſt the moſt virulent of thoſe calumniators?—(*h*)

Is it for ſervices rendered on that occaſion, either as the author or foſter-father of thoſe calumnies, that the reputed author of Veritas has been rewarded with a profitable ſtation under the government of the United States, at the expenſe, *by removal*, of a meritorious and reſpectable man?

Was it not the cuſtom of the reputed author of the letter to MAZZEI, *previous to its publication in this country*, whenever he paſſed near Mount Vernon, to call to pay his reſpects to the great and good tenant of that manſion? or, in caſe the urgency of buſineſs would not permit the call, to ſend his compliments with an excuſe for the omiſion?

Did the reputed author of that letter, *after its publication here*, ever call, or ſend an excuſe for the

(*g*) See the National Gazette, paſſim: particularly the letters of Veritas. See alſo RANDOLPH's Vindication p. 37—"In time, when paſſion ſhall have yielded to ſober reaſon, the current may poſſibly turn, but in the mean while, this government, in relation to France and England, may be compared to a ſhip between the rocks of Scylla and Charybdis. If the treaty is ratified, the partiſans of the French (or rather of war and confuſion) will excite them to hoſtile meaſures; or at leaſt to unfriendly ſentiments,—if it is not, there is no foreſeeing all the conſequences which may follow, as it reſpects Great Britain."—*Extract of a letter from General* WASHINGTON *to Mr.* RANDOLPH, *July* 31, 1795.

(*h*) By recurring to the letters of Veritas, and attentively comparing them, in their ſtyle, and even in ſome of their ſpecific expreſſions, with the letter to MAZZEI, doubts formerly exiſting will be rather confirmed than otherwiſe, that *the reputed author* was nothing more than a *foſter-father* indeed.

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omiſion, during the remainder of the life of that illuſtrious perſonage?

Who was it that, upon the receipt and publication of the diſpatches of General PINCKNEY, General MARSHALL, and Mr. GERRY, ſo far intereſted himſelf in behalf of the Aurora, as to write to his correſpondents in various parts of the country, ſoliciting their exertions in procuring ſubſcriptions for that paper; ſuggeſting that it muſt otherwiſe fall, on account of its loſs of ſupport, in conſequence of the diſcloſures contained in thoſe diſpatches, and the notorious devotion of that paper to the deſigns of France againſt our country?

In addition to that devotion, had not that paper, by its anonymous publications, been united in efforts with the letter to MAZZEI, to heap obloquy upon "the man firſt in war, firſt in peace, and firſt in the hearts of his countrymen," when on the day of his retirement from public life, it profanely preſumed to uſe, in paraphraſtic form, the exclamation of the good old SIMEON, not becauſe the eyes of the editor had beheld *our government, then ſo far continued in the full tide of ſucceſsful experiment, and our country ſo far kept free and firm;* but becauſe they had beheld the day when the counſels of Waſhington were to ceaſe to guide in the adminiſtration of the affairs of our country? (*i*)

Had not that paper been ſtrenuouſly devoted to the purpoſe of endeavouring to affix to the character of that moſt reſpectable of men, charges the moſt baſe, the moſt wicked, and the moſt criminal,—*peculation*, (*k*) when his hands had been forever cloſed againſt retribution in every form, for ſervices above all eſtimation, (*l*)—*murder*, for having, in his youth,

(*i*) See extract from the Aurora, Appendix, No. 1.
(*k*) See the eſſays of the Calm Obſerver in that paper.
(*l*) See Appendix, No. 2.

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dared to defend his country againſt the inſidious deſigns of France, (*m*)—treaſon, (for ſuch is the true definition of the conduct of thoſe who, at any time exerciſing the powers of the government of our country, may wiſh *to change its republican form*, and in that change may *aſpire to an abſolute power*) though he had defended that country againſt the unjuſtifiable claims of Britain in war, and had given ſtability to it by his counſels in peace? (*n*)

Had not that paper, from a period ſhortly after the arrival of citizen GENET, become the general ſink of calumny againſt every thing held dear and ſacred by the wiſe and good?

Was it for all, or for any of theſe things, that it merited its boaſted patronage from ſome "eminent in ſtation under the government of the United States?" (*o*)

Who is it that, inſtead of taking care that the laws be faithfully executed, has placed obſtacles in the way of juſtice, by reſorting to *nolle proſequis* and *remittiturs*, to ſcreen the libellers of that government and the calumniators of WASHINGTON? (*p*)

(*m*) See various eſſays in the Aurora, deſigned for the purpoſe of affixing this charge upon General WASHINGTON, in conſequence of his firſt rencounter in his youth, with the French and ſavages upon our weſtern frontiers.

(*n*) For this charge ſee the letter to MAZZEI and the many ambiguous inſinuations of Mr. JEFFERSON, of which that letter may be conſidered as an explanatory index.

(*o*) Notice having been received of the exertions made in the country, at the inſtance of Mr. JEFFERSON, to procure new and additional ſubſcriptions for the Aurora, a hint was given of it in the Gazette of the United States, in the month of June 1798; upon which there immediately came out in the Aurora an avowal and boaſt of that patronage.

(*p*) For inſtance, in the caſe of DUANE, as to the former, and in the caſe of CALLENDER, as to the latter.

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Who is it, according to the admiſſion of his own confidential apologiſts, has granted permiſſion for the uſe of that naval force which was raiſed, not without the moſt ſtrenuous oppoſition, for the protection of the honour and intereſts of our country, to the unprincipled and impious PAINE, another of the calumniators of WASHINGTON? (*q*)

Was it to appeaſe the manes of the illuſtrious dead, for theſe various indignities, that numerous pilgrimages are ſaid to have been latterly performed to that venerable manſion which was honoured, in his life, with his fondeſt predilection, as the aſylum of his declining years?

Or was this purpoſe intended to be effected by deſignating him (who had, at the riſk of life and every thing dear to man, uniformly contended, in peace and in war, for the ancient, well tried, and eſtabliſhed principles of free government, and for the fundamental maxims of approved polity,) as "our firſt and greateſt *revolutionary* character," (*r*)—or by the invidious inſinuation, that "his ſervices *had* entitled him to the firſt place in his country's love, and deſtined for him the faireſt page of faithful hiſtory;" as if his claim upon his country's love, or a ſtation in the faireſt page of faithful hiſtory, were forfeited and no longer continuing titles? (*s*)

But, ſir, it is unpleaſant to dwell on topics ſuch as theſe, however neceſſary ſuch inquiries may be rendered, to diffuſe information of the genuine characters of ſome who, while in profeſſion they admit the propriety of *the diffuſion of information and arraign-*

(*q*) For the diſguſting and ſhameful prevarications on this ſubject, and the final and full acknowlegement, ſee the Waſhington Federaliſt of July 15, 24, 27, and 31, 1801, citing the words of the National Intelligencer.

(*r*) See Appendix, No. 8.

(*s*) See Appendix, No. 9.

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ment of all abuſes at the bar of public reaſon, attempt, by odious ſtigmata, to deter all from reſorting to the acknowledged right of free diſcuſſion, whenſoever they fear that right may be exerciſed to their own, *not injury*, but diſadvantage :—who, whilſt they utter unfounded, general, and indiſcriminate charges, of the higheſt degree of criminality againſt others, cry out, "*Oceans of calumny!*" whenever they dread a candid diſcuſſion of their own principles and conduct, upon ſpecific facts and evidences, too notorious to be contradicted or denied. Nay, facts and evidences ſo incapable of defence or palliation, that it has been ſaid, hopes have been expreſſed, that friends, as a proof of their friendſhip, would be ſilent upon ſuch topics.

"*Pudet nobis hæc opprobria objici, et non potuisse refelli.*"*

Unwilling to dwell longer upon ſuch topics, though far from being exhauſted, I ſhall proceed, ſir, to an examination of certain of your political principles, authenticated in ſuch manner as to exclude all controverſy about their exiſtence.

The firſt point, upon which I propoſe to examine your political principles, involves a moſt important object,—the preſervation, or deſtruction of the fundamental barriers of the conſtitution, placed between the legiſlative and executive departments of the government of the United States.

That you, and thoſe who are intimately connected with you in your political career, have been long diſpoſed to bring into diſcredit thoſe barriers, and to render indiſtinct the demarcation of powers between theſe moſt efficient of the departments of the government, is a fact which heretofore had not eſcaped obſervation. It is notorious, that thoſe, who have uni-

* It is diſgraceful that ſuch things can be ſaid and cannot be contradicted.

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formly directed their exertions to the support of those barriers, in strict conformity with the letter and spirit of the constitution, have been assailed for those exertions by the most odious political designations, and by charges of hostility to the principles of republican government. It is equally notorious, that attempts levelled against those barriers for their prostration, have been confidently assumed, as proofs of the superior, nay! of the exclusive republicanism of those who have publicly dared to make those attempts. Evidences, evincing the truth of the foregoing positions, have been continually accumulating from the period, when the government was first put into operation, to (what is feared to be) the inauspicious moment of your present elevation. Yet, notwithstanding what had previously taken place, notwithstanding the apprehensions which had been entertained of the course which your administration might take in this respect, in order to enable you to escape from the constitutional responsibility of your station, and to throw the blame of your measures, in case of unfortunate consequences, upon the people themselves, by artfully pretending a commendable deference for public opinion, but pursuing, in reality, a cover against that responsibility, under the form of the guidance of their own representatives; it is acknowledged, that it was not without surprize, your inaugural address was found to contain a direct avowal of that course.

"To you then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked, amidst the conflicting elements of a troubled world."

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Such, ſir, is the language with which you cloſe the firſt ſection of your addreſs. It is too explicit to be miſtaken. You, ſir, being "enounced according to the form of the conſtitution" Preſident of the United States, to whom is confided the executive power of the government, the command of the public force, the conduct of our affairs with foreign nations, and the care that the laws be duly executed, look with encouragement for, or in other words, ſolicit not only that ſupport and co-operation, which the conſtitution authorizes every chief magiſtrate to expect; but the guidance alſo of thoſe charged with the ſovereign functions of legiſlation. Can that guidance be looked for conſiſtently with the letter or ſpirit of the conſtitution?

My preſent letter being protracted to a ſufficient length, it ſeems expedient to ſuſpend my purſuit of this ſubject till my next. Accept therefore, in the mean time, my homage of all due reſpect.

Your fellow-citizen,

TACITUS.

LETTER III.

To THOMAS JEFFERSON, *Eſquire, Preſident of the United States.*

SIR,

IN my preceding letter I have ſaid, the expreſſions uſed by you in your inaugural addreſs, on the ſubject of looking for guidance, were too explicit to be miſtaken: they ſtill ſeem ſo to me; but leſt there

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ſhould be any cavilling upon the ſubject, let us examine them with critical preciſion.

" To you then, gentlemen, who are charged with the ſovereign functions of legiſlation, and to thoſe aſſociated with you, I look with encouragement for that guidance and ſupport."

The perſon looking, and *thoſe looked to*, for the objects ſpecified, there can be no queſtion about, upon the ſlighteſt view of the foregoing terms. You, ſir, are the looker for, and the two houſes of congreſs are thoſe looked to: the objects alſo looked for are equally unqueſtionable, guidance and ſupport.—The only doubts which can poſſibly riſe in the caſe are, in what capacity, and for what purpoſe are thoſe objects looked for? The conſtitution, by giving power, expreſsly, to the congreſs of the United States, (in whom are declared to be veſted all legiſlative powers granted by that inſtrument) " to make all laws, which ſhall be neceſſary and proper for carrying into execution all powers veſted by the conſtitution in the government of the United States, or in any department or officer thereof," unqueſtionably authorizes every perſon who ſhall be elected to the office of Preſident of the United States, to expect from that department the ſupport neceſſary and proper to enable him to carry into execution the powers veſted in him by the conſtitution, provided, according to the precautionary expreſſions of the Senate, his official conduct be directed to the honour and intereſts of our country. Hence it ſeems to be fairly deducible, that " the ſupport looked for" by you, ſir, is looked for, in your capacity of Preſident of the United States, and for the purpoſe of aiding you in that capacity, to carry into execution the powers veſted in you by the conſtitution.

The ſame expreſſions which apply to the word "*ſupport*" previouſly apply to the word "*guidance*" to

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which the word "*support*" is itſelf an adjunct.—Hence it ſeems equally fair to infer that "the guidance looked for" by you, ſir, is looked for in your capacity of Preſident of the United States and for a purpoſe ſimilar to that for which ſupport was looked for, with an allowance for the variation in the ſignification of the term itſelf; to wit, *for the purpoſe of guiding you, as Preſident of the United States, in carrying into execution the powers veſted in you by the conſtitution.*

Do the ſubſequent words "*which may enable us to ſteer with ſafety the veſſel*" in any wiſe vary the conſtruction, above ſuppoſed? If they do,—then the word "*us*" muſt comprehend *thoſe charged with the ſovereign functions of legiſlation*, as well as yourſelf, ſir, who are charged with the ſovereign functions of executive power. If this be the caſe, it then neceſſarily follows, that thoſe who are to be the givers of guidance and ſupport are alſo to be the receivers. To admit this conſtruction, ſir, would be to charge you with abſurdity, as well as inconſiſtency, which ſurely neither yourſelf, nor any of your advocates will contend for or allow. The term "*us*" then, in this caſe, can only comprehend your own High Self, according to the ſtile of certain auguſt perſonages.

Do the ſubſequent words "*in which we are all embarked amidſt the conflicting elements of a troubled world*" in any degree authorize or require a variation in the foregoing conſtruction? The latter expreſſion, it is true, ſeems to generalize the thing.—The veſſel, like an ark, ſeems to be laden, not only with him who has the charge of the helm, and thoſe charged with the ſovereign functions of legiſlation; but with the whole crew of the United States, *clean* and *unclean*.

Excluſively of the conſideration of the variety of colours in the viſages of ſuch a crew, and *other incidents, not leſs material;* the former abſurdity ſtill remains, ſo long as thoſe charged with the ſovereign

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functions of legiſlation remain a part of the crew: they, if they be any portion of "*us*," to whom *guidance* and ſupport are to be given, muſt ſtill be receivers as well as givers. Moreover, if the reſt of "*us*" are alſo to be comprehended amongſt the givers and receivers or either of them, ſuch circumſtance may lead to concluſions, for which perhaps we are not fully prepared. Can it be that our *individual ſovereignties* and powers of *ſelf-government*, have entitled us, in deſpite of our conceſſions in the conſtitution, to immediate ſhares in the ſovereign functions either of legiſlation or executive power? It is, however, to be remembered, that we are on ſhip-board, and what is more, in a ſtorm,—"amidſt the conflicting elements of a troubled world." A mutiny, or a ſhipwreck, may therefore, *de facto*, re-inveſt us with theſe powers:—in the former, the loweſt is equal, if not ſuperior to the higheſt, and in the latter, all ſubordination being at an end, each man becomes of courſe his own ſovereign. (*a*) Finding then, ſir, upon the moſt critical examination of the terms uſed by you, no juſt grounds for a change of conſtruction, and in truth, all other conſtruction being excluded, the queſtion recurs, can that guidance, of which you have ſpoken, be looked for by you in the executive functions of your ſtation, conſiſtently with the letter or ſpirit of the conſtitution, to thoſe charged with the ſovereign functions of legiſlation? If there be any one principle clearly fixed in American polity, it is, that the great divi-

(*a*) "*Neceſſities which diſſolve a government* do not convey its authority to an oligarchy or a monarchy. They throw back into the hands of the people the powers they have delegated, and leave them as individuals to ſhift for themſelves. *A leader may offer*, but not impoſe himſelf, nor be impoſed on them."—Notes on Virginia. We have ſeen how theſe things have been *ordered* in France by *the Flatterers of the People*: if we refuſe to take warning by their experience, we muſt prepare to ſubmit to their fate.

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ſions of political power, legiſlative, executive and judicial, ought to be exerciſed by ſeparate and diſtinct co-ordinate departments, as independently of each other, as may be compatible with the unity of government and the harmony of the whole. This object is avowedly aimed at in every exiſting government of the individual ſtates; with various ſucceſs indeed in the reſult, but in no inſtance without a clear recognition of the principle. The conſtitution of the United States, in conformity with this well approved maxim, ſanctioned by the public ſentiment, divides the government into thoſe three departments, and aſſigns to each, with ſufficient preciſion, its reſpective powers and duties.

Inſtead of placing the executive department under *the guidance* of the legiſlature, even in matters of a legiſlative kind, it has expreſsly ſubjected the legiſlative power itſelf to the controul of the executive by the means of a qualified negative, requiring, whenſoever the uſe of that negative ſhall be deemed expedient by the executive, that the will of the legiſlature ſhall not prevail, unleſs two thirds of each branch of that department ſhall, upon deliberation, concur in their former deciſions.

Inſtead of placing the executive department under the guidance of the legiſlature, in matters of an executive nature, the conſtitution has expreſsly made the Preſident of the United States reſponſible for the due and faithful diſcharge of the duties of the executive department, by ſubjecting him, in caſe of failure, to an impeachment by the houſe of repreſentatives, one of the branches of the legiſlature, and by rendering that impeachment determinable ſolely before the ſenate, the other branch of the ſame department. The diſtribution of the powers and duties thus made between the legiſlative and executive departments of the government, even if that diſtribution reſted upon prin-

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ciples of doubtful expediency, so long as it retains its present constitutional obligation, ought to be sacredly binding on all; especially on one, whose peculiar and solemn oath of office binds him to "*preserve, protect, and defend the constitution.*"

If it be true, that "*qui facit per alium facit per se*" (*b*) (and what truth can be more self evident?) must it not necessarily follow, that a president of the United States who shall, in reality, submit himself, in the executive functions of his station, to the guidance of the legislature, must thereby become the servile instrument of the latter? The powers intended to be deposited by the constitution with two of the great departments, as co-ordinate members of the government, to be by them separately and distinctly exercised, thereby necessarily become united and consolidated; that union and consolidation effectually defacing every previous line of demarcation; the responsibility which it was intended, by the constitution, should be peculiarly attached to the executive, becomes diffused over the whole body of the legislature, and by that diffusion is necessarily lost. Of little avail is it then, that barriers have been provided by the constitution between those departments: of little avail is it, that provision has been solemnly made, in the power of impeachment, against the enterprizes of ambition and the subversion of those barriers, unless the public vigilance and the public sentiment guard and enforce the sanctions of the constitution, and a just indignation be pointed against every attempt, knowingly made, whether successful or not, secretly to sap or directly to overthrow those barriers.

(*b*) "He who acts by another, acts by himself,"—or in other words, whether a principal act immediately by himself, or mediately by an agent, the authority is one and the same, in either case.

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If either branch of the legiſlature, deluded by the vain idea of an increaſe of its powers, through the addition of the dangerous prerogative of guiding and directing the executive, in the duties pertaining to that department, ſhould be diſpoſed to accept the proffered guidance, the moſt ſerious calamities might enſue, and, if remediable at all, not remediable until a diſtant period. If the houſe of repreſentatives were to accept the proffered guidance, would they impeach their inſtrument, who had flattered their vanity, by contributing to an increaſe of their powers, for the diſaſtrous conſequences of meaſures of their own guidance, and conſequently their previous approbation? Can the ſenate condemn without an impeachment exhibited? If the houſe of repreſentatives were to remain ſound, and the ſenate were to accept the proffered guidance, would it not be equally vain that an impeachment ſhould be exhibited? Would the ſenate condemn one whoſe meaſures they had previouſly guided, conſequently approved? The uniform teſtimony of the hiſtory of human nature forbids the expectation. Whether then this guidance be accepted, in whole or in part, by the legiſlature of the United States, if accepted at all, the conſequences are equally inevitable. Whatſoever may be the miſfortunes which may befal our country from meaſures of an executive nature ſo guided, the people muſt neceſſarily be deprived, for a time, perhaps forever, of the advantages of that check, about the importance of which ſo much was ſaid heretofore, when, during the adminiſtration of WASHINGTON himſelf, the chief juſtice of the United States (who, by the conſtitution, is required to preſide whenſoever a preſident ſhall be impeached) was abſent, for a ſhort time, upon an important public ſervice.

If, by an artful advance of this ſort, a preſident of the United States ſhall be ſuffered to proſtrate a

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fundamental barrier of the conſtitution, and thereby bring into one indiſcriminate maſs the powers of the legiſlative and executive departments, will not the reſult too probably be, whatever may be the intention, to throw our country into a ſtate of convulſion? If ſuch attempt ſhall fail of that reſult, through the rejection of the legiſlature, ought it ſtill to paſs, not only with impunity, but even without any mark of public indignation ſet upon it? Under a continual expoſure to the enterprizes of deſigning and ambitious men, unawed by apprehenſions either of danger or indignation, what is to be the continuance of our republican ſyſtem, and the duration of all the important objects of its inſtitution?

But perhaps it may be ſaid, why theſe anticipations of evil in proſpective? Is it becoming to ſuppoſe, that the legiſlature of the United States, or either branch of that body, will accept this proffered guidance, or, accepting it, will exerciſe that guidance in ſuch manner as may prove calamitous to our country? I wiſh, ſir, not to be deficient in due reſpect to any; but it has already been the boaſt of thoſe who triumph in your elevation, that a majority will be found in one, if not in both, of the branches of the legiſlature of the United States, whoſe ſentiments will be congenial with thoſe profeſſed by yourſelf: and public report has done much wrong to the heads of ſome of your aſſiſtant departments, if they have not been already moſt indecorouſly engaged, as agents of electioneering intrigue in different parts of the union, for the purpoſe of ſecuring thoſe majorities—a precedent ſuch as has neither been ſeen nor heard of before, in our country, from the origin of the government till the preſent period. Can it be, that upon an expectation of the exiſtence of ſuch majorities many of the extraordinary acts of your adminiſtration have been hazarded, into which, from

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their intrinſic impropriety, it ſhould ſeem no man, poſſeſſing a ſound underſtanding, whatever the wiſhes of his heart may be, would have adventured, unleſs upon a preſumption of being ſupported through all meaſures, right and wrong? But whatever may be the purity, nay, ſir, permit me to add, whatever may be the wiſdom which may be found in numerous bodies, ſuch as thoſe of either of the branches of the legiſlature of the United States, they are incapable, in the nature of things, of exerciſing a guidance in the affairs of the executive department, without bringing on our country the calamities which have been anticipated. To the limits of their reſpective powers, as marked in the conſtitution, each department of the government, it is believed, can go with ſafety and advantage; but beyond theſe limits, the maxims of wiſdom, founded on the experience of every country, warn us, that incalculable dangers await us.

I ſhall ſay nothing at preſent, ſir, of your motives and views in this ſolicitation of guidance, and proffer of ſubmiſſion; but what has been the uniform tendency of ſuch guidance, I hold myſelf free to inquire, and your perfect knowledge of that tendency, I hold myſelf free to demonſtrate. If theſe things ſhall be fully accompliſhed, your fellow-citizens will be enabled, each for himſelf, to form ſatisfactory concluſions concerning your motives and views. Leſt, however, it ſhould ſeem, that I have attached an undue importance to your expreſſions of *looking with encouragement for guidance to thoſe charged with the ſovereign functions of legiſlation*, I ſhall take the liberty of reviewing ſome of thoſe evidences before alluded to, which had induced apprehenſions of the courſe your adminiſtration would take, previous to

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your declaration in your inaugural addreſs. This review will be commenced in my next letter.

Accept my homage of all due reſpect.

Your fellow-citizen,

TACITUS.

LETTER IV.

To THOMAS JEFFERSON, *Eſquire, President of the United States.*

SIR,

IN my laſt letter addreſſed to you, I took the liberty of propoſing, (before I ſhould proceed to the attempt of demonſtrating the tendency of the guidance looked for by you, and leſt it ſhould be ſuppoſed, I had attached an undue degree of importance to the expreſſions uſed by you,) *to review ſome of the evidences*, which were ſtated to have been accumulating from the period when the government was firſt put into motion, to the inauſpicious moment of your preſent elevation, of a diſpoſition ſuppoſed to exiſt to bring into diſcredit the barriers eſtabliſhed by the conſtitution between the legiſlative and executive departments of the government of the United States, and to render indiſtinct the demarcation of powers between thoſe departments. *This*, ſir, *is a painful office; but it is made the duty* of ſome citizen, who feels a ſincere ſolicitude for the happineſs of his country: without pretending to talents or information, equal to the talents or information of many others,

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to capacitate me for this undertaking, without claiming a ſuperiority, yet unwilling to concede an inferiority of zeal for that happineſs, *I meet the duty as ſuch.*

Let us then commence with the commencement of the government, and, after a momentary view of the conſtruction then made of the relative duties of the legiſlative and executive departments, let us proceed with a review of thoſe evidences.

General WASHINGTON, in his firſt addreſs delivered to congreſs at the firſt ſeſſion held under the preſent conſtitution, I find to have expreſſed himſelf upon this ſubject in the following manner.

"By the article, eſtabliſhing the executive department, it is made the duty of the Preſident, (ſaid he, repeating the words of the conſtitution) 'to recommend to your conſideration ſuch meaſures as he ſhall judge neceſſary and expedient.' The circumſtances under which I now meet you, will acquit me from entering into that ſubject farther than to refer you to THE GREAT CONSTITUTIONAL CHARTER, under which we are aſſembled, and which, in defining your powers, deſignates the objects to which your attention is to be given."

What, ſir, can be further from ſoliciting guidance? Does the great conſtitutional charter, to which he then referred the legiſlative department, contain any thing concerning the guidance of the Preſident, in the executive functions of his ſtation? The legiſlature, it is true, have power to declare war,—to declare when letters of marque and repriſal may be iſſued, and to enact laws, in aid of the laws of nations, where, by the latter, offences or their puniſhments are not marked with ſufficient preciſion; but does it follow from thence, that the guidance of the executive, in duties properly of an executive nature, can be exerciſed by the legiſlature? The Preſident, it ap-

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pears, is required to recommend to the conſideration, of congreſs ſuch meaſures as he may judge neceſſary and expedient; but where are we to find any thing like guidance in return? The objects of his recommendation, being addreſſed to the legiſlature, muſt obviouſly be directed to their legiſlative deliberation. *The information* alſo, which he is required to give, from time to time, of the ſtate of the union, has as little to do with legiſlative guidance in executive duties. The ſtate of the union being known, it is the duty, as it is within the power of congreſs, to make the proviſions neceſſary and proper, to enable every department and officer of the government to fulfil the duties of their ſtations reſpectively. Such ſeems to have been the conſtruction of General WASHINGTON and of the different branches of the legiſlature at that period, when the conſtitution was, as it were, yet recent from the plaſtic hand of many who were then deputed to act under it. *The co-operation of all*, each within the limits of conſtitutional power and duty, ſeems to have been the ultimatum of expectation on every part; *mutual pledges* therefore for that co-operation, and not for guidance, were exchanged between the executive and the different branches of the legiſlature. (*a*) It cannot, however, be denied, but that the propriety of this idea of the conſtitutional independence of the different departments was, even at that time, conteſted by ſome. There were then, as there now are, and forever will be, ſome who, arrogating to themſelves a pre-eminence in republicaniſm, become the advocates of principles (the diſgrace of the republican name) continually leading to anarchy and confuſion. Neither the benevolent cautions of wiſdom, nor the

(*a*) See the anſwers of the two houſes and the replies of the preſident.

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awful warnings of experience, can cure ſuch political empirics of their infatuation.

The firſt evidence of a ſpirit hoſtile to the barriers of the conſtitution, of which I ſhall take notice, occurred during the firſt ſeſſion of the firſt congreſs under the preſent conſtitution. By recurring to the journals of the houſe of repreſentatives of that ſeſſion, it will be found, that, on the 18th day of Auguſt, 1789, a variety of propoſitions, ſaid to be for amending the conſtitution, were offered to the houſe; that a motion was made, that thoſe propoſitions be ſubmitted to a committee of the whole houſe, to whom had been referred certain amendments reported by a ſpecial committee; and that among the propoſitions then offered was the following, to wit:

"Art. 2, ſec. 2, clauſe 1.—Strike out the words—*be commander in chief*, and inſert—*have power to direct, agreeably to law, the operations.*"

This propoſition, had it been adopted, would have cauſed the clauſe which now declares that "the preſident ſhall be commander in chief of the army and navy of the United States, and of the militia of the ſeveral ſtates, when called into the actual ſervice of the United States," to run in the following terms:—The preſident ſhall *have power to direct, agreeably to law, the operations* of the army and navy of the United States, and of the militia of the ſeveral ſtates, when called into the actual ſervice of the United States.

This propoſition, with thoſe accompanying it, was denied even a reference to the conſideration of the the committee propoſed: with ſo little reſpect were ſuch ideas then treated. Had the change contemplated been adopted through every requiſite formality, it would, even then, have made the preſident in part only what, ſir, you now propoſe, without any formality, to make him in the whole; the ſervile inſtru-

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ment of the legiſlature. From what ſource this propoſition for an amendment, *as it was called*, had originated, adequate information is not poſſeſſed for a deciſion; but that you, ſir, had your full ſhare in exciting the rage for amendments, *as they were called*, which prevailed at that time, is now pretty well underſtood: and from your preſent diſpoſition to place the executive functions of your ſtation under the guidance of the legiſlature, a ſtrong preſumption ariſes of the ſource from which that particular propoſition then emanated.

The next appearance of this ſpirit was in the form of an attempt to excite diſſatisfaction at the conduct of General WASHINGTON, in iſſuing his proclamation of neutrality. You well know, ſir, the arguments uſed to induce him, at that time, to ſubmit himſelf, in the duties of his ſtation, to the guidance of the legiſlature; but he, being ſatisfied that our country was not bound to become a party in the war, reſiſted every inſidious artifice to induce him to call together the legiſlature before the uſual period, and took his courſe, in the mean time, at his own reſponſibility. The wiſdom of the meaſure was proved by the iſſue: the delay gave Citizen GENET time to expoſe his own character, and the tendency of his deſigns. His diſcontent, however, and that of his ſecret co-operators, were in proportion to the diſappointment of their hopes in the advantages, looked for, from the intrigues of ſuch an agent with a numerous body of men, where characters of great variety muſt neceſſarily have been found. The exertions made on that occaſion to bring General WASHINGTON under the guidance of the legiſlature, (who, it was hoped, might again be guided by Citizen GENET) having failed; the proclamation of neutrality was attacked: that, and the character of him by whoſe authority it was iſſued, were attempted to

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be ſtigmatized, by giving to that inſtrument the denomination of *a royal proclamation.* The virulent abuſe of VERITAS was brought forward and the inſidious ſophiſtry of HELVIDIUS was plied, in order to diſcover what impreſſions could be made (by open aſſault or ſecret undermining,) on the public mind.—The unworthy duplicity, practiſed on that occaſion, muſt forever reflect the greateſt diſhonour on thoſe guilty of it; but this ſubject deſerves to be handled more fully than the preſent occaſion ſeems to admit of. Let us therefore proceed to the ſucceeding appearances of this reſtleſs, and it is to be feared, fatally miſchievous ſpirit.

Its next appearance was in the form of diſcontent, at the nomination of Mr. JAY, as envoy extraordinary to Great Britain. The circumſtances, under which that nomination was made, deſerve to be briefly recapitulated.—War having been declared by France againſt Great Britain, ſtrong ſymptoms of reſentment and antipathy againſt the latter, and of violent prejudices in favour of the former, had been exhibited on various occaſions and in different quarters of the United States. Perhaps, indeed, even that department of our government, which was charged with the conduct of our affairs with foreign nations, had through inadvertence, certainly without unfair deſign, ventured into meaſures with regard to France, the ſtrict compatibility of which with the duties of neutrality was not entirely free from queſtion:—the anticipation of the inſtalments of our debt to France, obviouſly ſerving to alleviate her difficulties, brought on her by a war declared by herſelf, and the permiſſion of the ſale of her prizes, without previous regular condemnation, in our ports,—neither ſupported by prior ſtipulations, and the latter unauthorized by the practice of France herſelf, or the laws and uſages of nations generally, afforded at leaſt a pretext

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for diſſatisfaction. Britain, poſſibly from a combined view of all theſe circumſtances, calculating upon our being drawn into the vortex of war on the ſide of France, had iſſued her famous inſtructions, authoriſing the capture of American bottoms, and the carrying them in *for adjudication.* Under theſe inſtructions, captures to a great amount were made, and condemnations, whether authoriſed or not, followed. Notwithſtanding the evidences of favour, which had appeared in behalf of France, founded on the preſumption, that ſhe had, in good faith and in conformity with her profeſſions, abandoned her former ambition, and dangerous deſigns of aggrandiſement, and that ſhe intended nothing but her own internal reform, and a juſt reſiſtance againſt the interference of others: it was nevertheleſs certain, that the great body of the conſiderate and reſpectable of our countrymen, in conformity with the proclamation of the Preſident, were anxious to preſerve an impartial neutrality. But this conduct of Britain, apparently diſregarding the pacific diſpoſition manifeſted by our government, and the well known wiſhes of the ſounder part of the nation, well nigh threw our country into a flame of general indignation. Amidſt this ferment, certain propoſitions, the reſult of honeſt indignation, but nurſed and promoted by inſidious deſign, were brought forward in congreſs, which, though not amounting to a declaration of war, it was eaſy to be foreſeen, if adopted muſt inevitably terminate in war. The controverſies of nations, however commencing, muſt ultimately be ſettled by the principles of the laws of nations: whatever therefore may be the injuries which one nation receives from another, and however inconſiſtent, in point of mode may have been the commencement of thoſe injuries, with the principles which ought to regulate the intercourſe of nations; yet it has been ſeldom

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ſeen, that the injured nation has derived any advantage from abandoning the accuſtomed forms of procedure on ſuch occaſions. Theſe forms required of us, on our part, a demand of ſatisfaction, before a recourſe to the laſt horrid reſort. General WASHINGTON, under theſe circumſtances, anxious to preſerve our peace as the means of our riſing proſperity,—anxious to throw every portion of blame from his country, in caſe war ſhould at laſt be found to be unavoidable, thought proper to arreſt the proceedings in congreſs; which, by their precipitance, tended to endanger our peace, whilſt yet by poſſibility that peace might be capable of preſervation, without a ſacrifice of national honour. He therefore nominated an envoy extraordinary, to make known our ſenſe of the injuries which we had ſuſtained, to demand a ceſſation from further injuries, and to claim compenſation for thoſe which had been ſuffered. The meaſures which were then contemplated in congreſs and which were thus arreſted, though not within the uſual practice of nations, are ſuppoſed not to have been abſolutely without the limits of the legiſlative power: the means by which they were arreſted, were clearly within the conſtitutional limits of the executive power. The only queſtion therefore which ought to have ariſen on the occaſion was, which courſe was more truly conformed to ſound wiſdom and policy. But the diſcuſſion of this point ſatisfied not thoſe, who above all things wiſhed to precipitate our country into war, and thereby to compel us to make *a common cauſe with France:* they reprobated the meaſure, not only upon the ſcore of wiſdom and policy, but they aſſerted alſo, that it was inconſiſtent with conſtitutional propriety—When one department, it was ſaid, and that too conſiſting of the immediate repreſentatives of the people, had, as it were, pre-occupied a ſubject, it was altogether inconſiſtent with the rela-

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tions which ought to exiſt between the departmnts, for another, and that too the executive, to ſtep in and ſuperſede their deſigns.—Much abuſe, in conſequence, was ſhowered down on the reverend head of the preſerver of our peace and the father of our national liberties: but the independence of his conduct ſet a glorious example to his ſucceſſors and will forever do him honour with all independent men; however it may ſeem to thoſe, who, ſhrinking from the reſponſibility of their ſtations, would fain place themſelves under the guidance of others. The wiſdom of this meaſure has alſo been proved by the event. Let thoſe who doubt it review the conditions of thoſe nations, who have been drawn into the war, and honoured as the allies of France.

The independence diſplayed by the executive on this occaſion, convinced "the friends of France or rather of war and confuſion," that they had nothing to expect favourable to their deſigns, ſo long as WASHINGTON ſhould continue the Chief Magiſtrate of the union; unleſs ſome means could be deviſed for deſtroying the balance of the conſtitution itſelf. For this purpoſe therefore (it ſeems at that time to have been decided) the people were to be addreſſed in the moſt flattering manner: they were to be told continually, that the houſe of repreſentatives were more peculiarly their repreſentatives than any other part or branch of the government; and conſequently the only republican part of the conſtitution:—that the executive in particular was, in its nature, eſſentially anti-republican, that it was already too ſtrong for the republican parts of the conſtitution, and conſequently that it muſt be hoſtile and dangerous to republicaniſm, unleſs it could be reduced, by voluntary ſurrender, or otherwiſe, to a ſtate of guidance under thoſe charged with the ſovereign functions of legiſlation. By ſuch means it was hoped the public af-

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fection and confidence might be withdrawn from the ſupport of an independent executive, and a preponderating influence, deſtructive of all balance, ultimately thrown into the ſcale of the houſe of repreſentatives. From that period therefore a determination ſeems to have been taken to make the beſt advantage of this principle, on all opportunities that ſhould ſubſequently be preſented. The negociations and treaty of Mr. JAY, as being a ſequel of the ſame buſineſs, ſeem to have been preferred for the firſt attempt. A reſolution, we know, was propoſed and unfortunately carried by the concurrence of many, who, it is believed, if they had clearly ſeen through the deſign, would have rejected it with indignation. The oſtenſible object of this reſolution was to obtain a view of the inſtructions given to Mr. JAY, and of the correſpondence during the negociation, as if any information to be derived from thence, could enable thoſe, who deſired it, more ſagely to make proviſions for carrying that treaty into effect. The real object of that reſolution was obviouſly to eſtabliſh a precedent for interference and control, which you, ſir, are pleaſed to term *guidance*, in the powers and duties of the executive department. The papers demanded are ſaid to have been previouſly acceſſible to, and to have been actually ſeen and read by thoſe, who were moſt ſtrenuous in ſupporting the reſolution: if this be ſo, information could not have been needed. Much pains had been previouſly taken to excite all poſſible odium againſt the treaty and every thing connected with it: theſe exertions, it was hoped, would aid in conciliating the public ſentiments to this attempt of uſurpation. But the ſtrong good ſenſe, and the irrefutable reaſoning and proofs contained in the anſwer to that requiſition, confounded the machinations of thoſe, who had thus inſidiouſly deſigned the ſubverſion of the conſtitutional independence of the execu-

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tive department. As a complete antidote, ſir, to your ſolicitude for guidance, I take the liberty of recommending that communication to your further conſideration, and to the conſideration of my fellow-citizens generally.

One further abortive attempt, however, was made during the adminiſtration of General WASHINGTON, in purſuit of this object. That attempt, as a dernier effort, was as bold as it was unprincipled. It aſſerted, in defiance of the expreſs proviſions of the conſtitution, nothing leſs than that a negative upon all treaties, which required appropriations to carry them into effect, neceſſarily reſulted to the houſe of repreſentatives, without whoſe aſſent it was pretended no ſuch treaty could acquire complete validity.

That no act of appropriation for carrying a treaty into effect can be paſſed without the concurrence of the houſe repreſentatives is unqueſtionably true: it is equally true, that no act of appropriation can be paſſed for paying the fixed ſalaries of the preſident or the judges, or for diſcharging the moſt juſt and acknowledged demands againſt the public, without a ſimilar concurrence: but is it to be inferred from hence, that the conſtitution intended to render "the executive and judiciary dependent on the houſe of repreſentatives for their ſubſiſtence in office," or that the American people could ever have intended, by any act, the eſtabliſhment of a power in our country, with authority to ſet at naught the eternal relations of juſtice? The phyſical power to refuſe a concurrence for ſuch objects, like every other power to do wrong, unqueſtionably exiſts; but it is a power which cannot be exerciſed conſiſtently with juſtice or good faith. If this concurrence may, with propriety, be withheld in any one caſe, in defiance of of juſtice or good faith, it may obviouſly, in all inſtances, be converted from armour ſimply of a defen-

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ſive mind againſt arbitrary power (its true and original nature) into weapons of the moſt dangerouſly offenſive nature. Thus armed, the legiſlature, or even the houſe of repreſentatives alone, a branch of the legiſlature, by aſſuming the diſpoſition of a beſieging army, might ſet themſelves down around the other departments of the government, and by refuſing to concur in neceſſary appropriations, they might ſtarve the executive, the judiciary, and every branch of the government into ſubmiſſion and compliance with their particular views and deſigns, unleſs the public ſentiment ſhould compel them to raiſe the ſiege. They might, in conformity with ſuch principles, concentrate all powers in their own hands, to be dealt out by thoſe under their ſpecial guidance, or, as an only remaining alternative, horrid indeed! but not more horrid, they might compel a diſſolution of the government and of the ſocial compact.

To counteract and check this diſpoſition, which was thus manifeſted during his adminiſtration, was one of the objects which the firſt of preſidents had moſt at heart, as being of infinite importance to our future peace, order, and good government. He ſaw clearly through the capacity of this principle for working miſchief; its addreſs to the paſſions, under the plauſible pretext of promoting the power and importance of the people; and its inevitable tendency "to create, whatever the form of government, a real deſpotiſm." When about to retire from public life, he therefore made it one of the objects of his ſolicitous admonitions to us on that occaſion.

Would to Heaven, ſir, for your own honour and for our happineſs, that you had more ſtudied and reſpected the example and the precepts of this great, and what is more, of this good man! In that caſe, your fellow-citizens would never have ſuffered the mortification of being witneſſes to an invitation to

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uſurpation, by a proffered ſurrender of the independence of your official ſtation. In that caſe you would never have ſought popularity at the expenſe of right principles. He was accuſtomed to ſay, "there is but one ſtraight courſe in the theſe things, and that is to ſeek truth and to purſue it ſteadily." "Honeſty" too, he would ſay, "is the beſt policy." There needed for you, ſir, in addition to what you poſſeſſed, nothing more than a due degree of real modeſty, of candour, of liberality of mind, and of good intentions, (*b*) to have opened to you the faireſt field of honourable fame that ever was preſented for eaſy gathering.

The principles of your immediate predeceſſor, for whom you heretofore profeſſed ſuch high reſpect, and the occurrences during his adminiſtration, relative to this ſubject, muſt be poſtponed till my next.

Accept, Sir, in the mean time, my homage of all due reſpect.

Your fellow-citizen,

TACITUS.

(*b*) Theſe qualities are ſuppoſed neceſſary to imply the exiſtence of real worth, from which, as from their ſole ſource, they can only proceed.

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LETTER V.

To THOMAS JEFFERSON, *Eſquire, Preſident of the United States.*

SIR,

YOUR immediate predeceſſor in office, to whoſe talents and integrity you have borne the moſt public teſtimony, (*a*) was early diſtinguiſhed by his exertions in our firſt advances towards a ſtation among the independent nations of the earth. At that period, being under an impreſſion, that "leſs of danger was to be apprehended from the formidable power of fleets and armies which might be brought to act againſt us, than from thoſe conteſts and diſſenſions which might ariſe concerning the forms of government to be inſtituted over the whole and over the parts of this extenſive country," (*b*) he ſeems to have formed the generous deſign of reviewing the political hiſtory of every ſtate and nation from which inſtruction might be gleaned, for the advantage of his countrymen. Taking the recommendation of BACON and the example of BOYLE, in tracing the philoſophy of material nature, for his direction, in tracing the philoſophy of man and government, (I hope I may be pardoned for the expreſſion) he rejected all vain theories, and confined himſelf to the actual experience of mankind. The reſult of his immenſe labours and patient induſtry may be ſeen in his "*Defence of the Conſtitutions of Government of the United States of America*"—a work in which the great and eſſential

(*a*.) See Mr. JEFFERSON's inaugural addreſs of March 4, 1797. Appendix No. 13.

(*b*.) See Mr. ADAMS's inaugural addreſs, March 4, 1797. American Senator, vol. 3. p. 780.

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principles of all free government are explained and enforced by reaſon, illuſtrated by proofs and examples, and maintained with an honeſt independency of ſentiment and ſoundneſs of judgment, that do great honour to the author. To this work, as to a vaſt repertory of valuable inſtruction, the grave and the conſiderate, whilſt pondering on the moſt important intereſts of mankind, will have frequent recourſe, when the "Notes on Virginia," with all their tinſel beauty, ſhall be conſidered but as the idle proluſions of vanity, unleſs indeed by thoſe, and ſuch as thoſe, ſo juſtly characterized by the old ſarcaſtic bard, in the following lines:

Cedo qui veſtram rempublicam tantam amiſiſtis tam cito?
Proventabunt oratores novi stulti, adolescentuli. (c)

Among the various principles illuſtrated and eſtabliſhed in that valuable work, none is more dwelt upon, or is rendered more obvious, than the neceſſity of a balance of the intereſts and powers naturally and neceſſarily exiſting in every ſociety and aſſemblage of men, to the peace and happineſs of the whole. This is laid down by him, as the baſis of all moderate and free government, and is unqueſtionably ſo. The neceſſity of an executive, maintaining its authority with an erect independence, is at the ſame time demonſtrated, not only as it relates to the ſupport, but even to the exiſtence of that balance. The conſtitution of the United States contemplated, without queſtion, the eſtabliſhment of ſuch an executive, and not one which was to betray the truſt confided to it, by a ſubmiſſion to the guidance of thoſe charged with the ſovereign functions of legiſlation.

In what manner the duties of that ſtation had been diſcharged by General WASHINGTON, when its

(c) See Appendix, No. 10.

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independence was attempted or assailed by faction or infatuation, we have already seen: it remains to trace some of the further abortive attempts of that spirit, during the administration of his successor, and your immediate predecessor.

Shortly after Mr. ADAMS had been called to the chief magistracy of the union, information was received by the government, that France had come to a determination not to acknowledge or receive another minister plenipotentiary from the United States, until after a redress of grievances demanded of the American government, which it was pretended the French government had a right to expect from it. The French government had previously discontinued their own minister to the United States, without a clear and consistent explication of the nature and extent of their own demands and expectations. Such declaration, therefore, on the part of France, and under such circumstances, amounted, in effect to a declaration of war: for when one nation thus declares its high dissatisfaction with another, and precludes all means of explanation, it must be considered either as abandoning what it claims, or intending to pursue that claim by force of arms. The manner of the declaration, as well as the general spirit by which that nation was actuated, forbade the supposition of an abandonment of claim: hostilities, therefore, were the only rational inference that could be made. Such inference we unquestionably had a right to make, nor was it disproved by subsequent events.

In this extraordinary state of things Mr. ADAMS called congress together; he laid before them the state of the union, and of our relations with France; and in order that his general intentions might not be unknown to those whose duty it was to co-operate with him, and to place their country in a state of preparation to meet the approaching crisis, he

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thought proper to ſtate, that notwithſtanding the indignity offered to our country, it was his determination, " in comformity with the general deſire to preſerve peace and friendſhip with all nations, to inſtitute a freſh attempt at negociation," and to endeavour " to promote and accelerate an accommodation, on terms compatible with the rights, duties, intereſts and honour of the nation." He was pleaſed to add (what to be ſure muſt have been underſtood, if not expreſſed) that if we had committed errors and theſe could be demonſtrated, we ſhould be willing to correct them: if we had done injuries, we ſhould be willing on conviction to redreſs them; and equal meaſures of juſtice we had a right to expect from France, and every other nation.

This declaration, as exhibiting to the world, in a ſolemn manner, the moderation and juſtice of our views and expectations, was not miſplaced; and in this light only ought it to have been viewed: yet ſlight as was the occaſion, it was greedily ſeized upon by that ſpirit, which had ſo often ſtruggled to uſurp *the guidance* of the executive. Under the pretext that this general declaration might be conſidered in ſome ſort, as a ſubmiſſion to that *guidance*, an attempt was made to preſcribe to the executive the principles of the inſtructions, which ſhould be given to the miniſters to be employed on that occaſion, and the terms upon which an accommodation ſhould be negociated. The attempt was reſiſted, and in a great degree defeated by the more conſiderate; but the ſtruggle on this point conſumed not a little of time. Upon what principle is it, ſir, that ſuch a pretenſion could be juſtified? You, yourſelf have heretofore ſtated that the executive is " charged with the conduct of our affairs with foreign nations." The terms uſed in the conſtitution are too explicit to admit of a doubt, " that the power of making treaties is excluſively veſted in the Preſi-

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dent, by and with the advice and consent of the senate, provided two thirds of the senators present concur." But if another division or branch of the government may arrogate the power of prescribing the principles of instructions, to be given to ministers, and the terms of accommodation; is not that division or branch in effect, the negociating and treaty-making power? The principles of common sense preclude all question in the case. (*d.*)

At the succeeding session of congress, it became necessary to continue an act, which was almost coeval with the government, and which in the nature of things, as to its general principles, must be as durable, as the government itself; but which had been passed and renewed, from time to time, with a clause limiting its duration. This act specified the rate of compensation which should not be exceeded to the ministers and diplomatic agents of the United States; and appropriated a moderate sum, to be at the annual disposal of the President for that purpose, but to be accounted for, as to its application, before the accounting officers of the Treasury. In such a case it seemed to require more than ordinary ingenuity to find a pretext for a dispute; but a spirit of usurpation, though destitute of ingenuity, is seldom at a loss for pretexts. The wolf in the fable, when he had been foiled by the lamb in every pretext that he thought proper to specify, set up other pretexts without specification, and resorted to his superior strength, for the proof of the justice of those unspecified pretexts.—What can be said to men, when, in defiance of the explicit terms of the constitution declaring that "the

(*d*) See the address of Mr ADAMS to congress, May 16 1797. The correspondence of GEN. PINCKNEY laid before congress at that time; and the debates of congress on this subject in the public papers.

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Preſident ſhall have power to nominate, and by and the advice and conſent of the ſenate, to appoint ambaſſadors and other public miniſters;" they ſhall boldly come forth and declare, that becauſe the expenſes to be incurred by ſuch appointments, cannot be provided for, but by an act, to which the concurrence of the houſe of repreſentatives is neceſſary; therefore the houſe of repreſentatives have power to preſcribe to the Preſident, not only of what grade miniſters, to be nominated and appointed by him, ſhall be; to what nations miniſters ſhall, or ſhall not be ſent; but even that the houſe of repreſentatives have power *to do away* the very power itſelf of making ſuch appointments? Strange as it may ſeem, theſe pretenſions have been made in the face of the American people, and what may ſeem more ſtrange, by thoſe who have profeſſed themſelves to be the defenders of the principles of the conſtitution in their utmoſt purity. The power of appointing ambaſſadors and other public miniſters is obviouſly an inſeparable incident of the national ſovereignty, ariſing under the laws of nations; the conſtitution does not create, it only recognizes the power, as already exiſting; and ſpecifies the department, which ſhall exerciſe that power. Under ſuch conſtitutional proviſion, let us ſuppoſe that no legiſlative act, preſcribing the rate of compenſation, or making appropriations for the purpoſe, exiſted: let us ſuppoſe in ſuch a ſtate of things, a criſis occurs, in which it is deemed proper by the Preſident to nominate, and upon receiving the advice and conſent of the ſenate, to appoint a public miniſter to a foreign nation, to tranſact ſome important buſineſs, relative to the intereſts of our country: let us ſuppoſe the individual, thus appointed, ſufficiently wealthy to defray, out of his own reſources, the expenſes of ſuch miſſion in the firſt place, and ſufficiently patriotic to encounter, upon ſuch terms, ſo weighty

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and important a duty :—let us ſuppoſe the ſervices, either ſucceſsfully performed, or every reaſonable exertion made without ſucceſs. What would be the ſituation of ſuch a man? His appointment being from thoſe, whom the will of the nation, expreſſed in the conſtitution, had authoriſed to make ſuch appointment, is his title to retribution for his expenſes, and to compenſation for his ſervices a matter of ſtrict juſtice, or is it merely *ex gratiâ?* Our holy religion tells us, that *the labourer is worthy of his hire;* and natural reaſon tells us that the relations of juſtice (like the equality of the radii of a circle, which potentially exiſted before the circumference of a circle was ever deſcribed) exiſted previouſly to all poſitive laws. The obligation then to appropriate, to the amount of what might be reaſonably due in ſuch caſe, is impoſed by an authority paramount to that of man: nothing can excuſe for the non-performance of ſuch duty, except phyſical inability; which, equally powerful with neceſſity, is a check, that controls even the moral law, as to the performance, but not as to its principles. What then can be the effect of the only remaining power in ſuch caſe, that of enquiring into the quantum, which ought to be rendered? Can this power rightfully annihilate the obligation, by fixing the quantum at nothing? As well might a jury, impanelled to enquire of damages upon a *quantum meruit*, in the ordinary adminiſtration of juſtice, between man and man, where the demand was already concluſively admitted, in defiance of juſtice and the admiſſion of the party, find that nothing was due.—Ought not the ſame eternal and immutable principles of juſtice to govern alike in all caſes, whether a congreſs of the United States, or a jury in a court, be the body employed in enquiring into its relations? Can the diſcretion of the one rightfully claim to itſelf a greater latitude than the diſcretion of the other?

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Diſcretion itſelf, when correctly underſtood, what is it but *the exerciſe of the diſcerning powers of the mind*, for the purpoſe of diſcriminating between truth and error, right and wrong, duty and its contraries, and all the cauſes of preference and rejection in the various incidents of life? In relation to the ſubject of compenſation to the ambaſſadors and public miniſters of the United States, when it is *diſcerned*, that the will of the nation, expreſſed in the conſtitution, has veſted the power of appoinment excluſively in the executive to be exerciſed by and with the advice and conſent of the ſenate; when it is *diſcerned*, that if ſuch appointment be made, and ſervice rendered, a perfect obligation ariſes for compenſation; when it has been *diſcerned*, that the abilities of the nation are adequate to the purpoſes of juſtice, what further object remains for legiſlative *diſcernment*, or *diſcretion?* Surely nothing more than (conſidering the ordinary courſe of human affairs, and the certainty, that the relations of our country with foreign nations muſt and will require diplomatic agents to ſome extent) whether it be expedient to make proviſion before hand for ſuch ſervice, leſt the public intereſt ſhould ſuffer, or to wait till the ſervices ſhall be performed, at the private expenſes of the perſons appointed and employed? If it ſhall be decided, that it is more conducive to the public welfare to anticipate ſuch expenſes by previous appropriations upon conjectural eſtimates, to be accounted for as has been cuſtomary; are other principles to apply? or will it be pretended, that the relations of juſtice are changed, in conſequence of a deciſion in the favour of the one courſe or the other? If there be ground for variation, what is it? (*e*.)

From the pretenſions ſet up, in this caſe, to the guidance of the executive, a ſtriking illuſtration is

(*e*) See the Debates on this ſubject in the public papers.

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preſented of the extravagant uſe which may be made of a perverſion of principles. The concurrence of the houſe of repreſentatives in an act of appropriation, (a proviſion in its nature merely defenſive againſt wrong) being converted into an offenſive weapon, is rendered capable, by the aid of a little heat and political ſophiſtry, of ſubverting the conſtitution and ſetting at naught the will of the nation, of annulling the general laws of nations and the eternal principles of juſtice and right.

Could it have been conceived neceſſary or deſirable to expoſe the diſorganizing principles, or rather the deſtitution of all principles, of ſuch men, in their hoſtility to the executive department, when exerciſed independently of their guidance, nothing more opportune could have occurred, than a debate, which took place at the ſucceeding ſeſſion of congreſs.—An individual, it ſeems, about the cloſe of the preceding ſeſſion, under ſtrong indications of his being an agent of a faction in the United States, carrying on a correſpondence, though not treaſonable, certainly of a moſt queſtionable nature, with the government of France, ſet out from Philadelphia on a viſit to Paris. Similar occurrences, it was known, had taken place from other countries, preparatory to the maturation of conſpiracies of the moſt dangerous kind, and in ſome inſtances, terminating in the abſolute extinction of the independence and ſelf-government of thoſe countries.(*f*) Various diſcloſures relative to this miſſion,—the gene-

(*f*) See Mr. Burke's Poſthumous Works, part 2d, p. 14. concerning Mr. Fox's embaſſy by Mr. Adair to Ruſſia, Appendix No. 11. See alſo Gifford to Erſkine, near the cloſe, on the same ſubject. See D'Ivernoi's Revolution of Geneva concerning embaſſies to Paris of like nature. See Mr. Monroe's view and appendix p. 102, and 110 concerning the embaſſy of Du ch Patriots to Paris.

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ral complexion of affairs, and the dangers to be apprehended from a repetition of such conduct, if suffered with impunity, induced the congress of the United States to take up the subject with a view to future prevention. In the debate which took place on this occasion, the very men, who had most strenuously endeavoured to throw obstacles in the way of the constitutional exercise of the powers of embassy by the elective Chief Magistrate of the American people, under the control of the senate; nay! who had threatened to bring forward a proposition *to do away* that power altogether, were seen arranged on the side of a spurious envoy; asserting that his conduct, in undertaking such agency, was not only free from blame, but worthy of applause, and maintaining that every individual, who pleased, (and consequently as well as those, who through corruption or infatuation might be prepared to prostrate the honour, and sacrifice the independence of their country to a foreign nation, as others) was authorised to take upon himself the delicate and important powers of embassy,—powers, which, in their nature, are inseparable from the united sovereignty of the nation, represented by their national government. (g.)

It were endless to pursue the inconsistencies of such men: one instance more, of a public nature, during the administration of Mr. ADAMS, shall suffice.

In consequence of the refusal of our ministers to place our country in a state of contribution, agreeably to certain demands made upon them, all must recollect the threats of national vengeance and annihilation against our country: preparatory to that, it was also threatened to cut up our trade by cruizers upon our coasts, and thus to levy contributions upon our individual citizens, in default of those de-

(g) See Debates on this subject in the public papers.

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manded from the nation at large. Upon the safety of our commerce, and of the means of transport, the productions of agriculture depended for their value: upon that safety depended also the principal source of our revenue, and this revenue was essential to our national safety. Notice of these threats had been scarcely received, before information was also received, not only of distant depredations, not only that hostile cruisers were upon our coasts, but even that they were within the bays and waters exclusively pertaining to the jurisdiction of the United States. Necessity makes its own laws. Our country, however desirous of peace, was thus compelled to prepare for its defence: the nature of the attack prescribed the nature of the means to be used in that defence. A small naval force was resolved upon for this unavoidable, this all-important purpose: but this was not effected without the most serious opposition in the public councils of our country:—when resolved upon, opposition ceased not; for hopes still remained, that a force, thus furnished, might be rendered ineffectual. A naval force being supplied, the constitution declares, that, "the President shall be commander in chief" of that force. An attempt had been made, as before seen, to vary the constitution in this respect, so as to declare, that *the president should have power to direct, agreeable to law, the operations of* that force, and had been rejected with marked contempt, as it deserved. All this mattered not; a new attempt was made, *to prescribe by law* to "the commander in chief of the navy of the United States" the manner in which he should exercise that command:—in fact, to prohibit him from using that naval force for the protection, by way of convoy, of the commerce of the United States, even when that convoy might be afforded consistently with the other objects of the public service. The strange ground of this

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ſtrange attempt to uſurp the guidance of the executive authority in this reſpect, was no other than the aſſertion of a doctrine, that to protect the commerce of the citizens of the United States againſt French depredations would be a violation of the duties of neutrality. (*b*)

Such, ſir, has been the conduct, ſuch have been the principles of thoſe whom you affect to conſider as the only orthodox in politics, the only patriots and republicans, the only defenders of the conſtitution and of the purity of its principles! For an oppoſition to theſe attempts at perverſion, for aſſerting that it was the duty of thoſe who had ſworn to "ſupport the conſtitution" to leave to the executive the independent exerciſe of its official functions, for maintaining that the independent exerciſe of thoſe functions was eſſential to the freedom and happineſs of our country, the federaliſts have been heretofore termed by you, ſir, and your aſſociates, "*ariſtocrats*, *monocrats*, and *tories*." (*i*) They have been lately termed by you, ſir, in a tranſaction made public by your permiſſion, *a political ſect*, as if ſwerving from the principles of orthodoxy in politics. For the independent exerciſe of the official functions of the executive department by your predeceſſors in office,

(*b*) See Debates on this ſubject in the public papers.

(*i*) Here certain anonymous publications might be referred to, which from their groſs miſrepreſentation and calumny could ſcarcely be admitted, unleſs upon the moſt concluſive evidence, to have proceeded from a ſource of any reſpectability.—Means are believed however to exiſt, ſufficient to convince every candid mind of their real ſource; but on account of their tenor, as well as the ſtation of their ſuppoſed author, a reference is forborne. Were their authenticity eſtabliſhed, one inference indeed would concluſively follow, to wit, that it is impoſſible for power, ſought and obtained by ſuch means, to be uſed to any good or honourable purpoſe; but of this, alas! without the aid of diſputable documents there is already too little reaſon to doubt. The words within inverted commas are authentic.

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that department has been heretofore declared by you, ſir, "*too ſtrong* for the republican parts of the conſtitution," as if the executive power were not an eſſential *part* of every government, *republican* as well others; as if that which is an eſſential part of republican government were, in its nature, anti republican. Becauſe the executive department has been reputed by you "already too ſtrong for the republican parts of the conſtitution," is it, therefore, ſir, that you, diſregarding the examples of your predeceſſors, are now determined to ſubmit yourſelf, in the diſcharge of the functions of that ſtation, to the guidance of thoſe charged with the ſovereign functions of legiſlation? Is it thus, ſir, that you propoſe to preſerve, protect, and defend the conſtitution?

The American people have heretofore fondly hoped that their ſafety and happineſs have been objects marked by the peculiar favour and interpoſition of the Providence of Heaven: and aſſuredly the paſt bleſſings which we have enjoyed, demand our warmeſt gratitude. May that kind Providence, which has heretofore watched over us, ſtill guard us againſt the deluſions and miſchievous conſequences of principles now, for the firſt time, avowedly about to be ſubmitted to experiment in our hitherto happy government!

Accept, Sir, my homage of all due reſpect.

Your fellow-citizen,

TACITUS.

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LETTER VI.

To THOMAS JEFFERSON, *Esquire, President of the United States.*

SIR,

IN my two last letters I took the liberty of reviewing certain transactions of a public nature, which had occurred during the administration of your predecessors: these transactions, taken separately, manifest each a strange disregard for original and constitutional principles—taken together, they evince a spirit of inveterate and systematic hostility to the constitution of the United States, and especially to the barriers established between the legislative and executive departments of the government. To assert that you, sir, were privy to those transactions and a partaker in that hostility, might perhaps seem indecorous in any individual, considering the high station, which you at present occupy: yet if "the diffusion of information and the arraignment of all abuses at the bar of public reason," (*a*) be allowable, it cannot be unlawful to recall the public attention to certain evidences, already in the public possession, and to solicit the public consideration of a question, apparently of no small concern—In what light your past conduct ought to cause your present solicitation of guidance to be viewed?

A defender of your political character, at a former period, has asserted "that your conduct had inspired a confidence, that it was never your wish, that your sentiments upon any subject of a public nature should

(*a*) See Mr. JEFFERSON's inaugural address of 4th of March, 1801, appendix No. 14.

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be withheld from your countrymen." (*b*) To a presumption of the continuance of that diſpoſition on your part, the freedom exerciſed in the preſent correſpondence, may, if you pleaſe, ſir, be attributed.

If the ſuggeſtions and information of Citizen GENET, contained in his letter of September 18, 1793, addreſſed to you, ſir, and publiſhed under your own authentication, be not maliciouſly falſe may it not be fairly inferred, that you, ſir, had painted to him, thoſe with whom you were apparently acting in concert in the adminiſtration of the government, "as ariſtocrats, partiſans of monarchy, partiſans of England, of her conſtitution, and conſequently as enemies of the principles" of republicaniſm?—May it not be fairly inferred, that you, ſir, had made Citizen GENET believe that you were his friend and that you had initiated him into myſteries which inflamed his hatred againſt thoſe whom you had painted as aſpiring to an abſolute power?

Conſidering the pretenſions of Citizen GENET at that period, can it be in any degree queſtionable, whether, ſir, your principles, as then diſcloſed to him, by which *you made him believe you were his friend*, and in relation to which WASHINGTON, and all thoſe who honeſtly concurred with and ſupported him, were "ariſtocrats, partiſans of monarchy, partiſans of England, of her conſtitution and conſequently enemies of the principles" of republicaniſm, were principles of amity or hoſtility to the conſtitution? As well might it be pretended, that it were queſtionable, whether to ſpeak in one way and act in another; to have an official language and a language confidential, were evidences of duplicity, or of plain dealing. (*c*)

(*b*) See the introductory obſervations to the "defence of Mr. JEFFERSON'S political character" in the National Gazette of September 26, 1792.

(*c*) See Citizen GENET'S letters of September 18, 1793.

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If the information of Citizen FAUCHET, contained in his famous letter of the 31ſt of October, 1794 (the authenticity of which is eſtabliſhed by his ſubſequent explanations, and by the publication of Mr. RANDOLPH) be in any wiſe worthy of regard, (and it is preſumable that he was not without aeceſs to the beſt ſources of information, ſec. 16,) what, ſir, may be inferred from thence?—Thoſe who were conſcious that our national exiſtence had been originally founded on the union of theſe States, and that the preſervation of our independence and ſelf-government ſtill depended on that union, and who therefore were friends to the adoption of the conſtitution, as the only means of ſecuring thoſe important objects, were ſtiled "*Federaliſts.*"—Thoſe who were oppoſed to the adoption of the conſtitution, and who "*wiſhed to preſerve the former ſyſtem, whoſe prejudices*" (to uſe the words of Citizen FAUCHET) "*ſhould cheriſh at leaſt the memory and the name,*" from the general perſuaſion that that ſyſtem, on account of its ineffiſiency could preſerve nothing more than the mere *memory and the name*, were denominated "*Anti-Federaliſts.*" Upon the adoption of the conſtitution, thoſe who had been moſt inveterate in their oppoſition, became (according to the repreſentation of Citizen FAUCHET) "*malcontents*":—when the government was put into operation, thoſe "*malcontents,*" uniting with them ſome unprincipled or diſappointed federaliſts, became "enemies to the whole ſyſtem of government." At a ſubſequent period "in proportion as the nation advanced in the experiment of a form of government which rendered it flouriſhing," it was diſcovered by thoſe "enemies of the whole ſyſtem of government," that they had taken the unpopular ſide of the queſtion,

amongſt the documents accompanying a meſſage of General WASHINGTON to Congreſs, of December 5, 1793; appendix No. 3.

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and conſequently that it was a vain thing for them, under that denomination, to attempt directly to overthrow the object of their enmity. That enmity was therefore to be diſguiſed under the appearance of diſſatisfaction at the meaſures of adminiſtration, whilſt thoſe under its influence were to attempt to put off their ancient denomination, and to aſſume that of "friends of the conſtitution and enemies only of the excreſcencies which financiering theories threatened to attach to it." The good ſenſe of the people, (under the denomination of the federal party) at that period, frowned upon the ſurreptitious attempt, and "*obſtinately perſisted* (ſays Citizen FAUCHET) *in leaving to its adverſaries the ſuſpicious name of* ANTI-FEDERALIST."—"*The anti-federalists*" mortified at this rebuff, after having paſſed through the various ſtates of "*malcontents*," and "*enemies to the whole ſyſtem of government*," at length, to uſe the words Citizen FAUCHET "diſembarraſs themſelves of an inſignificant denomination and take that of patriots and republicans."

"Thus grubs obſcene are turned to painted butterflies."

With the means of deception attached to theſe new names, it ſeems not to have eſcaped the immediate ſagacity of ſome, that "a revolution or a civil war" (ſec. 13) thoſe ordinary occurrences *on the tempeſtuous ſea of liberty*, might be brought about at a period not far diſtant. Affairs indeed ſeem to have been arranged in order for immediate progreſſion, and they doubtleſs would have proceeded to "*a* general exploſion, for ſome time prepared in the public mind," had not "the local and precipitate eruption (of the Weſtern inſurrection) *cauſed it to miſcarry, or at leaſt checked it for a long time.*"—You, ſir, are ſtated by Citizen FAUCHET "*to have foreſeen theſe criſes.*"—On you, ſir, thoſe *patriots and republicans*, who had previouſly paſſed through all the changes of a political

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chryſalis, *(anti-federalists, malcontents,* and *enemies to the whole ſyſtem of government)* are ſtated to have "caſt their eyes to ſucceed the Preſident," the great and good WASHINGTON upon his expected retirement.—You, ſir, are ſtated at the ſame time "prudently to have retired in order to avoid making a figure againſt your inclination in ſcenes, the ſecret of which will ſoon or late be brought to light."

Was it, ſir, from a knowledge of your approbation of meaſures, which had continued the government, (according to your own precious confeſſion) "in the full tide of ſucceſsful experiment, and ſo far kept us free and firm," that thoſe patriots and republicans were induced to caſt their eyes on you to ſucceed to your preſent high ſtation? Or was it, ſir, in order to evince your attachment to the government, "the world's beſt hope," and to prove your conviction that it "wants not energy to preſerve itſelf," (*d*) that "*you prudently retired*," at ſuch a criſis? Alas! what can be the ſcenes, the ſecret of which is now about to be brought to light? Can it be, that you feared your concurrence in enforcing the juſt authority of government at that *criſis*, might be adduced as an evidence of principles inconſiſtent with conduct to be obſerved in other ſcenes, at other criſes, when the people were to be flattered with ideas of *individual ſovereignty* and *perſonal ſelf-government*, till they ſhould be ſwindled out of every idea of a government of laws, and find their rights and liberties ſo ſecurely depoſited with a government of men, as to be inacceſſible even to their own individual ſovereignties?—(*e*)

If the letter addreſſed to MAZZEI (repreſented in its original publication to have been written, ſir, by

(*d*) See the inaugural addreſs of March 4, 1801; appendix, No. 14.

(*e*) See Citizen FAUCHET's intercepted letter of December 31, 1794, in Mr. Randolph's vindication; appendix, No. 4.

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you, and ſince averred, on various occaſions, by your intimate and confidential friends, to have proceeded from your pen) be authentic, what may not be inferred from your ſecret ſentiments there laid bare to view? The hoſtility of the writer of that letter, whoever he may be, was not confined to the individuals by whom the government was then adminiſtered, or to the principles which prevailed in the meaſures of their adminiſtration: his hoſtility clearly extended to the conſtitution itſelf. Whilſt "the executive, the judiciary, and all the officers of government," were repreſented, ſome of them as "*Solomons in council and Sampſons in combat, but whoſe hair had been cut off by the whore of England*," and all of them as "*Apoſtates;*" —and whilſt the principles of the adminiſtration were repreſented as calculated to "impoſe on us the ſubſtance of the Britiſh government, and to aſſimilate us to the Britiſh model in its corrupt parts," the conſtitution itſelf was alſo ſtigmatized with being "the form of the Britiſh government,"—it was contemptuouſly ſtyled, though now "the ſtrongeſt government upon earth," (*f*) Lilliputian ties by which we were bound in the firſt ſlumbers that ſucceeded our labours." "It is ſufficient that we guard ourſelves, and that we break the Lilliputian ties." When? Doubtleſs when the people, blinded by miſrepreſentation and paſſion, ſhall be rouſed, like SAMPSON of old, "to appear in all the majeſty of their ſtrength,(*g*) and to pull down ruin on their own heads, whilſt they are affording ſport to ſome plauſible, unprincipled, deſigning, and ambitious demagogue, perhaps at the

(*f*) See the inaugural addreſs of March 4, 1801; appendix, No. 14.

(*g*) See "Addreſs of the general aſſembly to the people of the commonwealth of Virginia" of January 23, 1799.

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ſame time "the dupe or the tool of foreign influence." *(b)*

If a letter bearing date at Montecello, September the 4th, 1800, and addreſſed, ſir, under your name, to a citizen of Berkeley county in Virginia, be authentic (and the manner of its publication ſeems to preclude all queſtion upon that point) what are the inferences plainly deducible from thence? The writer of that letter, whoever he be, by a ſingular perverſion of language and abuſe of terms, has affected to conſider the executive department of the republican government of the United States as "*the monarchical branch*," whilſt he compliments the legiſlature, or perhaps the houſe of repreſentatives alone, with the denomination of "*the republican branch of our government.*" Inſtead of endeavouring to harmonize the eſſential parts of our republican ſyſtem with one another, ſo that each might go on without colliſion in its appropriate ſphere, he has affected to conſider them as in a ſtate of natural warfare, in which the preponderance of the one or the other muſt neceſſarily prevail. The preponderance of the legiſlative over the executive department, and not a balance or equipoiſe of the whole, he conſiders as the only means of "ſo guarding the rights of the people as to be ſafe in any hands, and not to depend on the perſonal diſpoſition of the depoſitary." And you, ſir, if you be the author of that letter, avow it to be "the greateſt of all human conſolations to you to be conſidered, by the republican portion of your fellow-citizens, as the ſafe depoſitary of their rights." Whence this declaration of your ſatisfaction, bearing in it an illiberal calumny againſt all who dared to think their rights might be more ſafely entruſted with another depoſi-

(*b*) See the letter to MAZZEI; appendix, No. 5, and ſee the cautions of WASHINGTON, in his farewell addreſs, againſt national antipathies and attachments, and againſt foreign influence.

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tary? Whence this extraordinary conſolation in the proſpect of being raiſed to a ſtation rendered odious, as far as may be, by your own repreſentations of its being eſſentially monarchical? Was your conſolation heightened by the idea of having it in your power to render contemptible, by a ſubmiſſion to guidance that which you had before rendered odious by miſrepreſentation? When rendered both odious and contemptible, is it poſſible that you could find conſolation in the idea of putting off the character of a depoſitary of authority for the preſervation of the rights of all under the conſtitution, and of being inveſted with the character of the ſafe depoſitary of the rights of the republican portion of your fellow-citizens, independently of the conſtitution? (*i*) Was it with a view to ſuch a ſtate of things, perhaps long ſince in diſtant perſpective, that you commenced your ſympathetic rantings for *the European labourer*, who *goes ſupperleſs to bed, and moiſtens his bread with the ſweat of his brows?* (*k*) Is it with a view to ſuch a ſtate of things, perhaps now in nearer perſpective, that congratulations are offered at one time, that "unoccupied ſoil will ſtill offer itſelf to thoſe who wiſh to reap for themſelves what themſelves have ſown?" (*l*) that a ſtrong anxiety is expreſſed at another time, that "government ſhall not take from the mouth of labour the bread it has earned," and "that labour may be lightly burthened?" (*m*) And again, at the preſent time, when a national debt is to be

(*i*) See a "copy of Mr. JEFFERSON's letter in reply to one addreſſed to him by a citizen of Berkeley," taken "from the Richmond Examiner,"—in the Waſhington Federaliſt of February 6, 1801, and appendix, No. 6.

(*k*) See Notes on Virginia, query 22d and reply.

(*l*) See letter to a citizen of Berkeley; appendix, No. 6.

(*m*) See inaugural addreſs of March 4, 1801; append x, No. 14.

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avowedly cherished as a national blessing; when taxes are to be discontinued, lest the continuance of that national blessing should be terminated at a period earlier than was expected, and the resources of our country should be left free to be employed against any enterprizes threatening our independence and and self government (such, for instance as an attempt to carry into effect a proposition for "the respective naturalization of French and American citizens") (*n*) and lest we, in the wantonness of exemption from the public blessing of a public debt, should imprudently provoke wars in the present pacific and unambitious state of the world—is it, I say, at such a time, that with a view to such a state of things, we now find sentiments such as the following brought forward?

"Considering the general tendency to multiply offices and dependencies, and to increase expense to the ultimate term of burthen which the citizens can bear, it behoves us to avail ourselves of every occasion which presents itself, for taking off the surcharge; that it never may be seen here, that, after leaving to labour the smallest portion of its earnings on which it can subsist, government shall itself consume the residue of what it was instituted to guard."

Is it possible, sir, whatever may be your vanity, that you can have the confidence to suppose, that your

(*n*) "Mais la naturalisation respective des citoyens François et Américains, proposée par Jefferson et desirée par la nation Française, faciliteia cette stipulation d'une exemption réciproque de tonnage, et la rendra moins offensante pour les puissances qui, en vertu de leurs traités, pourraient réclamer la participation aux mêmes avantages. Puisque, *casus fœderis* se trouverait par cette stipulation, changée à cet égard."—*Extract des instructions données par le gouvernment François au Citoyen Adet.*

The honour of our country forbids a translation of the above. See however General WASHINGTON's message to Congress of January 19, 1797, and the accompanying documents, No. 114, and 116; appendix, No. 7.

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charity and compaſſion for the poor are really ſuperior to thoſe of other men, who, knowing by experience, *untried by you*, the ſweetneſs which may be given to bread by the labour of earning it, have imparted of their little to the poor, and left the account to Heaven, without making their ſympathy a ſubject of continual boaſting before the world? Is it poſſible that your vanity and ambition have ſo far blinded you, as to induce you to ſuppoſe, that the American people are alſo ſo blind as not to be capable of ſeeing through pretenſions ſo groſs and deſigns ſo palpable? As well might it be pretended, that the deſigns of a nation could not be comprehended, when it ſhould proclaim war againſt the governors and peace to the governed; war againſt palaces and peace to cottages; deſolation againſt property and peace, nay, wealth to poverty!

But however theſe things may be, is it poſſible that any man, after reviewing with any tolerable degree of attention the foregoing evidences, can entertain a doubt concerning your diſpoſition, whether it be that of amity or hoſtility to the principles of the conſtitution; that he can be at a loſs to eſtimate the import of your inaugural addreſs generally; or that he can ſuppoſe an undue importance has been attached to that paſſage of your addreſs before particularly cited and commented on?

If then to look with encouragement for guidance, in the executive functions of your ſtation, to thoſe charged with the ſovereign functions of legiſlation, be equivalent to a proffered ſurrender of your conſtitutional independence, and if that ſurrender neceſſarily operates the deſtruction of the barriers and checks explicitly eſtabliſhed by the conſtitution, and concentrates the executive with the legiſlative powers of the government in the ſame hands, or at leaſt in ſuch manner as to deſtroy the conſtitutional reſponſi-

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bility of the executive, nothing more remains to be done, to complete the preſent undertaking, but to aſcertain the tendency of that concentration and to demonſtrate your knowledge of that tendency.

The natural provinces of legiſlative and executive power are eſſentially diſtinct: it has therefore long been a received axiom in politics, that thoſe powers, in order that they ſhould be exerciſed with ſafety and convenience, for the liberty and happineſs of the members of every ſociety, ſhould be delegated to different bodies or departments. It is believed that it may be added with equal correctneſs, that, for that beneficial exerciſe, thoſe powers ought to be delegated, not only to different bodies, but alſo to bodies differently conſtituted.

The objects of legiſlative power (over and beyond that ſcience, prudence, and integrity which ought to adorn the magiſtracy in every department of government) require, in the members of that department, information, both of a general and local nature, relative to the intereſts and affairs of the ſociety and of its different parts. Theſe requiſites are judiciouſly ſought for by the conſtitution of the United States, in a houſe of repreſentatives, conſiſting of the choſen repreſentatives of the people from all parts of the union, and in a ſenate, conſiſting of the choſen repreſentatives of the ſtates in their corporate capacities. It is alſo requiſite that the legiſlative department ſhould be ſo conſtituted, as to render deliberation an eſſential ingredient in all its proceedings. That deliberation is therefore ſought for in certain forms which the good ſenſe of thoſe bodies may reſpectively preſcribe to them, in the conſtitutional neceſſity of a ſeparate concurrence of each of thoſe branches in every act of legiſlation, and in the conſtitutional control of the executive, by means of a modified negative, the effect of which is merely to compel the

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branches of the legiſlature, in all caſes of doubtful expediency, to reconſider each its own deciſion, or, in other words, to deliberate again.

The objects of executive power, (over and beyond the general requiſites before ſtated) ſeem to require harmony in deliberation and deciſion, unity in deſign, promptneſs in proceeding, and energy in execution. The conſtitution of the United States has accordingly ſought the beneficial attainment of the objects of executive power, by delegating that truſt to one individual ſolely, the preſident of the United States; contemplating, at the ſame time, the aid of competent aſſiſtants in the heads of the auxiliary departments, of his own original ſelection, removable at his ſole will and pleaſure, and in caſe of vacancy, to be ſupplied again by a choice originating ſolely with himſelf. Thus, aided by counſellors and agents of his own ſelection, ſubject only to the rejection of the ſenate, and ſupported by the legiſlature with the means neceſſary and proper to enable him to carry into execution the powers veſted in him by the conſtitution, a preſident of the United States, without further guidance (it ſeems to have been expected) was to be competent to the diſcharge of the duties of his ſtation. In caſe of failure, a ſerious conſideration ſeems to await the man who ſhall have preſumptuouſly accepted the charge of that ſtation. Over and beyond the public diſſatisfaction, it is expreſsly provided by the conſtitution, that the houſe of repreſentatives may impeach, and that the ſenate ſhall hear and determine: a power, doubtleſs, to be exerciſed with great diſcretion, and with reaſonable allowance for the frailties and weakneſſes of men: a duty, however, when neceſſary, aſſuredly not to be declined, but to be diſcharged by full performance, under high reſponſibility for the greateſt and beſt intereſts our country.

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My preſent letter being of ſufficient length, I muſt delay further proceeding till my next. Accept, in the mean time, Sir, my homage of all due reſpect and conſideration.

Your fellow-citizen,

TACITUS.

LETTER VII.

To THOMAS JEFFERSON, *Eſquire, Preſident of the United States.*

SIR,

IF the view before taken, of the legiſlative and executive powers of the government, upon both original and conſtitutional principles, be in a tolerable degree correct, what muſt be the effect of concentrating thoſe powers, either by the executive voluntarily placing itſelf under *the guidance* of the legiſlature, or by an unprincipled uſurpation of executive powers on the part of the legiſlature? This, ſir, is the enquiry now before us. Whatever may be the mode of concentration, our inquiry need in no wiſe be varied, ſince the reſult will neceſſarily be the ſame:—whatever may be done under the authority of the governor, whether of a legiſlative or executive kind, muſt, under ſuch a ſtate of things, proceed from the ſole authority of the legiſlative department, notwithſtanding the nominal exiſtence of a viſible executive.

I take it for a truth ſufficiently obvious, that *the guidance* of one directory ſo numerous as either of the branches of the legiſlature of the United States muſt inevitably deſtroy all harmony in deliberation and de-

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ciſion and all unity in deſign, and conſequently all promptneſs in proceeding, and energy in execution, in all meaſures of an executive nature. If ſuch be the effect of *the guidance* of one ſuch directory, it is believed that it may be aſſumed as equally true, that *the guidance* of two ſuch directorial bodies, at the ſame time, muſt inevitably embarraſs and ultimately deſtroy every thing like moderation and regular movement in the government.

The objects of executive power are not of a nature to be held in partnerſhip or jointenancy by different bodies, or even by different members of the ſame body. Whoever has given any tolerable attention to the courſe of the affairs of government in our own country, where a diſpoſition to concentrate legiſlative and executive powers had heretofore advanced no farther than to ſome abortive attempts at uſurpation, cannot have failed to remark the ſtrange effects, which have become viſible immediately upon the introduction of ſubjects of an executive nature into the diſcuſſions of a numerous legiſlative body. In the ſame aſſembly of men, who a little before ſeemed capable of diſcuſſing queſtions, *bona fide*, of a legiſlative kind with candour, with moderation, with mutual deference and reſpect for the characters and ſentiments of each other and with an apparent general deſire to arrive at wiſe and juſt reſults: no ſooner has a queſtion of an executive nature been introduced, than it ſeems to have been converted into a brand of diſcord, caſt amongſt them to kindle a flame. To this ſource, it is believed (from obſervations made at the moment on various occaſions and from ſubſequent reflexion) the unfortunate violence of party paſſions, which at preſent divide the people of America, is to be attributed, more than to any other cauſe. This effect produced by ſuch cauſe may have eſcaped the notice of ſome; but to you, ſir, who I am perſuaded look with ob-

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ſervant eyes, it cannot have remained unknown. If ſuch be the caſe, (all other conſiderations apart) how cruel is it, whilſt you profeſs to be deſirous of *reſtoring to ſocial intercourſe that harmony and affection, without which liberty and even life itſelf are but dreary things*, knowingly to furniſh to the flame already kindled an inexhauſtible ſupply of fuel, by ſubjecting at once the whole of your executive functions to the guidance of the legiſlature?

The different degrees of violence in the paſſions excited in diſcuſſions upon ſubjects of a legiſlative or executive nature, are eaſily to be accounted for from the difference of principles that operate in legiſlative and executive deliberation. Thoſe of the former kind, relating principally to general proviſions and regulations, adopted for future, diſtant, ſometimes indiſtinct and uncertain events, like queſtions in the abſtract, intereſt the paſſions in ſo ſlight a degree as to leave the operations of reaſon full and free exerciſe. Thoſe of the latter kind, relating to immediate and ſpecific objects, and theſe not unfrequently of great magnitude, to be acted upon, as well as to be deliberated upon, from theſe circumſtances, intereſt the paſſions to ſuch degree, as to render uncertain the operations of reaſon, even where no colliſion with the opinions of others intervenes. But if that colliſion, from a defective organization of government, or otherwiſe, unfortunately takes place, the paſſions of thoſe engaged in the executive conteſt blaze forth, and unleſs checked by ſingular prudence or ſome fortunate incident, ſoon prepare the way for all the changes of diſcord, which either wiſdom has predicted, or experience verified, till the cataſtrophe is cloſed by a ſtern and gloomy deſpotiſm.—(*a*)

(*a*) Nulla fides regni ſociis, omniſque poteſtas
"Impatiens conſortis erat." LUCAN.

The houſe of repreſentatives, therefore, and the ſenate, could not long continue joint poſſeſſors of the executive power, however quietly yielded by its conſtitutional occupant: contention muſt ariſe in the nature of things, nor could it ever ſubſide, but by the compleat demolition or reduction of the one or the other of thoſe bodies—not in relation to executive power alone, but in relation to legiſlative alſo; ſince every the ſmalleſt remnant of rival power, with which ſuch a conteſt has once exiſted, is forever after viewed as a germ, from which that conteſt may ſpring up anew. The deſtruction, therefore, of the exiſtence or authority of the one or the other of the branches of the preſent legiſlative department of the government of the United States would ſoon be the conſequence of an accumulation of power by the addition of *the guidance* of the executive. The judiciary, ſhould it, on any occaſion, dare to doubt the juſtice or conſtitutionality of the meaſures of the remaining body, would immediately experience a ſimilar fate. One department or branch of a department, thus uniting all powers, would then be ſeen to experience convulſive throes within itſelf, ariſing from the ſtruggles of its individual members for aſcendency: the reſult need not be traced further. Such ſeems to be the natural courſe of the effects, neceſſarily proceeding from a concentration of the legiſlative and executive powers in the hands of the legiſlature, conſidered with regard to the government itſelf apart from the people. But amidſt theſe tumultuary ſhocks of the government, the people could not remain at peace: the chart of our

> "No faith of partnerſhip dominion owns;
> "Still diſcord hovers o'er divided thrones."

Nothing can be more true than the above, in relation to executive power. France at preſent has her three Conſuls; but what are two of them? Not ſo much as the Countryman's Nightingale.—"Vox et preterea nihil."

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conſtitution being gone, what hopes would remain of recovering our former ſtation of peace and order? Let us therefore endeavour to trace, with regard to the people, the effects of this concentration of powers, the conſequence, ſir, of your "looking with encouragement for guidance to thoſe charged with the ſovereign functions of legiſlation."

The wiſdom of MONTESQUIEU, and "the friendly and diſintereſted warnings" of WASHINGTON, "the reſult (as he aſſured us) of much reflexion, of no inconſiderable obſervation, and which appeared to him all important to the permanency of our felicity as a people," may perhaps have become obſolete with ſome: with ſuch, however, it is hoped, the warnings of experience, offered to our conſideration by events which have recently taken place upon a theatre, to which the eyes of all *the excluſive patriots and republicans* of our country have been turned, cannot fail to make a due impreſſion. Monſieur NECKER, the favorite and popular miniſter of France at the commencement of her late ſeries of revolutions, has furniſhed us with ſome important inſtruction on this head. By his advice, it is ſaid, if I miſtake not, (and you, ſir, can correct my error, if I be in one, ſince you were not only upon the ſpot, but poſſibly may be not without ſome knowledge of *the ſecret adviſers* of that advice) it was, that in the convocation of the ſtates general, a double repreſentation was allowed to the *tiers etat*. A rat-hole in a dyke, at ſome period, I have not time to aſcertain when, is ſaid to have occaſioned the overflowing of a great portion of the United Netherlands:—"*Obsta principiis*" is a maxim of acknowledged merit in medicine and morals, and without queſtion might for ſome time paſt, and even yet, be applied with advantage in politics. The above incident of the double repreſentation in the *tiers etat*, trifling as it may ſeem, ſir, compared with your

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propoſition for ſubjecting the executive functions of your ſtation to legiſlative guidance; and immaterial, as it is admitted, it would have been, had the different orders of the ſtates general purſued their deliberations in diſtinct chambers, or bodies, became a floodgate, by which an inundation of evils was poured in upon France and the ſurrounding nations, ſuch as the records of hiſtory can ſcarcely furniſh a parallel to. By this duplication of their numbers, confidence ſeems to have been given to the *tiers etat*: they were conſequently inſpired with a deſire of making an experiment upon the innovating principles advocated by Monſieur TURGOT, and ſo zealouſly oppoſed by Mr. ADAMS, to wit, *the collection of all authority into one centre*, inſtead of having a government compoſed of departments, legiſlative, executive and judicial—the legiſlative moreover being compoſed of different branches or orders, and controlable by a negative in the executive. Their firſt attempt, therefore, was to aboliſh the diſtinction, which had immemorially exiſted between the nobility, the clergy, and the *tiers etat*, and to reduce the whole into one conſolidated aſſembly, in which, from their *increaſed numbers*, it was obvious the *tiers etat* would alone have the direction of every thing. The attempt was ultimately carried into effect by the moſt unjuſtifiable means—threats and terror. A national convention was formed, by melting down the ſtates general into one maſs, and being ſo formed was pleaſed to conſider itſelf a conſtituent aſſembly and proceeded to the formation of a conſtitution for the nation. This was at length compleated upon the ſame principles which gave riſe to the formation of the convention or conſtituent aſſembly itſelf; and the government under that conſtitution was put into motion. Monſieur NECKER, who has been accuſed (*b*) of inſidiouſly and artfully draw-

(*b*) See Debrett's collection of ſtate papers, vol. 1, page 38, & 57.

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ing up the orders, by which the repreſentation of the *tiers etat* was doubled and by which the ſovereign authority was alleged to be endangered; but who, from his ſubſequent conduct, ſeems to have been innocent of every thing like evil deſign, and to have been juſtly chargeable only with too great facility in yielding to a ſpirit of innovation under the idea of reform, or to the inſidious ſuggeſtions of others, was amongſt the moſt obſervant ſpectators of the conſequences which followed from this ſyſtem. In a work written by him as early as the year 1792, entitled "An Eſſay on the true principles of Executive power, &c."—(a work, worthy of the conſideration of politicians at all times, and of every American at the preſent time) amongſt many other valuable ſuggeſtions he furniſhes us with the following.

"There exiſts, no doubt," ſays he, "in the book of the conſtitution, two powers entirely diſtinct; but the want of proportion in their reſpective ſtrength muſt inevitably lead to confuſion: and this want of proportion became inevitable, when our law-givers (the conſtituent aſſembly) as I have ſhewn in the beginning of this work, had ſo long forgotten both the executive power and the rank it ought to aſſume in the forming of the conſtitutional articles.

"It is however a maxim, become almoſt proverbial, that *the union of powers is an attack on the principles of liberty*. It is indeed often repeated in a thoughtleſs manner by thoſe who can give no reaſon for what they ſay: but I will not repeat that which all intelligent men already know. I will only remark, that *the chief objection made against the old form of government, related to an union of powers* which centered in the monarch; yet the obſtacles he had to encounter, in the inconſiderate exerciſe of theſe various powers, were public opinion, the prevalence of manners, the oppoſition of parliaments, the rights of

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provinces, and for ſome time paſt, the well founded reſiſtance of provincial adminiſtrations. No doubt the immoderate power of an aſſembly, compoſed of national repreſentatives, is not ſo formidable as the deſpotiſm of an individual; but it has inconveniencies peculiar to itſelf, and which ought to be peculiarly felt by certain characters.

" A numerous aſſembly, when it exerciſes the executive power, can never act by inſenſible advances; all that is mild, indulgent, or accommodating to the frailties of men will ever appear to it effeminate; and if that aſſembly be compoſed of legiſlators, their habitual courſe of thought will bring them back to general and decided principles. This ſpirit is moſt conſpicuous in ſuch an adminiſtration, in the mode and rigour of its puniſhments. A collective aſſembly, obliged to renounce that foreſight which prevents faults, that penetration which diſcovers their origin, that mixture of indulgence and firmneſs which is better adapted to men than to theory, and that prudence which artfully wreſtles with difficulties; ſuch an aſſembly, unacquainted, by its legiſlative capacity, with that temporizing and accommodation which are ſo often neceſſary in executive adminiſtration, (*c*) is continually obliged to exhibit itſelf with the exterminating ſword: yet the union of ſeverity and power, though it may not be deſpotiſm, preſents ſo lively an image of it, that noble minds ſometimes find it difficult to ſupport the ſpectacle.

" In fine, we may be aſſured, that a legiſlative aſſembly, whether from the ſpirit inherent in its functions,

(*c*) The mixture of indulgence and firmneſs, the prudence artfully wreſtling with difficulties, ſpoken of by Monſieur NECKER as a temporiſing and accommodation with the frailties of men, were happily exemplified in the conduct of the executive in the caſe of the weſtern inſurrection. For a brief repreſentation of that conduct, ſee General WASHINGTON's addreſs to congreſs of November 19, 1794.

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the abſtract character which it inſenſibly acquires by its habitual examination of general queſtions, or the ſimple progress of opinions and ſentiments as exiſting in large bodies of men; ſuch an aſſembly, I ſay, never can conduct with mildneſs and moderation that part of public buſineſs which is underſtood by the phraſe executive adminiſtration. It will ſoon come to hate the temporizing of which it is itſelf incapable; and it will then inceſſantly be told of oaths, of public accuſers, high national courts, reſponſible miniſters, diſmiſſion from office, death or ignominious puniſhment, and every other invention of revenge. All the ſtores of tyranny are diſplayed to its view, to which it finds itſelf obliged to have recourſe, not from the love of deſpotiſm, but to provide itſelf with the only inſtruments it can employ, when it quits its legiſlative functions to ſeize on thoſe of executive adminiſtration. Yet benevolence and wiſdom are equally offended by this proceeding; and that freedom of ſentiment, which ought to reign in all hearts, is often obliged to be ſacrificed to an ideal freedom, which, having no central point, fills an indefinite ſpace in the fantaſtic declamations of orators and writers of romance.

"*There is no real, or at least no certain freedom, if there exist in the state an authority without counterpoiſe: and what power can be the counterpoiſe to the power of an aſſembly which combines in itſelf, not only every legiſlative right, but every dominion it ſhall pleaſe to aſſume, as well* OVER JUDICIARY FUNCTIONS *as over external and internal administration?* What power can be a counterpoiſe to the independence of an aſſembly which, avoiding only thoſe few faults calculated to excite public inquiry, finds itſelf ſuperior to cenſure, and which, by continually calling the attention to new objects, ſuffers it not to turn on the oppreſſed man for more than a day, and ſeems to ſtifle, by beat of drum, his murmurs and complaints. In fine, *what*

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limit can be fixed to the daring of an aſſembly which being renewed every two years, and having accompliſhed unrestrained its momentary reign, far from being ſubject to any reſponſibility, ſuddenly diſappears from the ſcene and, like lightening, diſperſes itſelf in inviſible particles?

"Who but muſt be terrified at the authority of an aſſembly which, in a moment and without appeal, decides on the honour, the fortune, and the freedom of citizens; and which, proſcribing by a ſmall majority of votes an inquiry into all opinions preſuppoſed contrary to the ſentiments of this majority, thus ſecures, by its tyranny over the minds, its deſpotiſm over the perſons of men? Who but muſt dread the authority of an aſſembly, which, on the report of one of its members, and without deigning to hear the accuſed or their advocates, fills the priſons with its victims? Who will not dread the authority of an aſſembly, ever ready to obey popular opinions, and which afterwards employs theſe very opinions to force the compliance of the monarch, and thus to break down the feeble mound which the conſtitution had raiſed to the omnipotence of the legiſlative body? In fine, who but muſt dread the unbounded authority of a collective being, which, paſſing in a twinkling from a living to an abſtract nature, has no need of compaſſion, nor any fear for itſelf, either of cenſure or condemnation? If a country can be called free, which is under the yoke of a power ſo abſolute, in which ſecurity of perſon, reſpect for property, and the maintenance of the public tranquillity depend on the tongue of an orator, and on the moment which he may artfully chuſe for gaining votes; if a country can be called free, in which no balance of authority exiſts; where the executive power is a vain ſound; where rights are all imaginary; where the opinions of the wiſe are no longer liſtened to, religion is impotent,

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and manners are lawleſs. If a government thus compoſed can be called free, there is an end to all ideas of the firſt principles of ſocial organization." (*d*)

The applicability of the foregoing obſervations of Monſieur NECKER, concerning the dangers which inevitably reſult from the concentration of legiſlative and executive powers in the hands of a legiſlative aſſembly, to your propoſition, ſir, of looking with encouragement for guidance to thoſe charged with the ſovereign functions of legiſlation, is too ſingular not to ſtrike the attention of the moſt heedleſs obſerver. Without any comment of my own, therefore, upon what has been already offered, I ſhall proceed, ſir, to add ſome few more of the obſervations of Monſieur NECKER, concerning the apprehenſions entertained by the more ſober and thinking inhabitants of France and of foreign countries, upon the political phænomena which then preſented themſelves, in the affairs of that country. Theſe obſervations manifeſt alſo his own melancholy anticipations of the evils which he then dreaded as impending over France, in conſequence of her departure from well eſtabliſhed maxims of policy, by "overthrowing the balance of government—a balance," ſays he "the moſt important object of whoſe inſtitution is the ſupport of liberty itſelf." They ſhew, at the ſame time, an amiable anxiety to vindicate the honour of the nation againſt the general imputation in which it ſeemed to be involved, by the ignorance, the weakneſs, the metaphyſical dogmatizing diſpoſition, the vanity, the exaggerations, and the miſchievous purſuits of popularity and power, of thoſe whom the nation had entruſted with the management of its affairs. "Miſtruſt," ſays Monſieur NECKER, "had long taken

(*d*) See Chap. 17. "*Of Executive Power as connected with Liberty.*"

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poſſeſſion of the ſober and thinking inhabitants of France, before foreigners would allow themſelves to harbour it. It was not till after long reſiſtance that foreigners abandoned us; it was by a ſort of conſtraint that they withdrew from us their attachment; and they felt a deep and lively ſorrow, when they ſaw their wiſhes fruſtrated and their hopes vaniſh. Their intereſt diminiſhed and their hearts were alienated, when they beheld the progreſſive increaſe of diſorders; when they beheld the continual abaſement of all regular authority, and the ſacred maxims of liberty converted into a pretext for every ſpecies of tyranny. Their intereſt diminiſhed and their hearts were alienated, when they ſaw the people blinded by the hypocritical adulation of thoſe who aſpired to govern in their name; when they ſaw, in the legiſlative body, the timid imbecility of virtue and the daring inſolence of vice; when they ſaw the baſe complaiſance of a national aſſembly towards men whoſe characters were ſo far tarniſhed, that they would not have been permitted, according to the laws of the ancient republics, to offer a propoſition, however uſeful, to the public adoption. But above all did foreigners ſhrink from us with terror, when they heard the ſtory of ſucceſſive deeds of injuſtice, barbarity, and cruelty; and when, as it too often happened, no man but themſelves lent an ear to the diſtreſsful cries of the victims. The generous and the virtuous of every country abandoned alſo the cauſe of the French nation, when they witneſſed its ingratitude towards a monarch whom that very nation had deſcribed in its faſti, by the glorious appellation of *The Reſtorer of Freedom*; when they ſaw the ſhameful pleaſure that was taken in idly wounding the heart of the beſt of princes, and that he was ſubjected, in the hour of adverſity and in his retirement, to the vile and daſtardly inſults of the moſt

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contemptible of beings, who, a little before, and while the ſhadow of power remained, had ſervilely cringed and licked the duſt beneath his feet. In fine, all nations deſpaired of us, when they ſaw morality and religion rendered the laughing ſtock of our politicians; when they obſerved the preſumptuous hopes of that criminal philoſophy which, having thrown aſide the maſk, pretended to ſubſtitute its frigid leſſons for the balm of piety and the inſpired communications which Heaven had adapted to our weakneſs. At length alas! the proſperity of France is no longer ſo much as hoped for, and they are her beſt friends that abandon themſelves to the moſt melancholy preſages.—They perceive *the arrival of the last term of illuſion*; they ſee the moment approach, when the bittereſt tears will be ſhed over the rich harveſt which has been ſuffered to periſh, when the leaſt prudential effort might have ſaved it. You who have accompliſhed all this, with what remorſe ought you not to be ſtung! It is not your country only, it is all Europe that demands an account of that liberty, of which fortune had rendered you the guardians; of that liberty, which, if ſagaciouſly directed, would have captivated the affections of the whole univerſe, but which in your unſkilful hands, is become an inſtrument of fear and a ſignal of terror. Blind and wretched guides of a nation deſerving of a better lot, you have ſacrificed even her renown! Could you for a moment, but quit the narrow cell in which your vanity has incloſed you; could you but hear what is now ſaid of a people whom you have miſled, your remorſe would be eternal. ******** Meanwhile it would be unjuſt to impute to the natural inclinations of the French people, wrongs that belong to a political conſtitution, in which art ſeems to have been exhauſted in order to introduce anarchy and the relaxation of every ſocial tie."

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" There is not a people upon the face of the earth whoſe manners would not be totally changed if they were ſuddenly carried back to the ſtate of natural liberty, or if they were merely brought near to it by unnerving the authorities deſtined to guard the public order. Envy, jealouſy, nay! the mere averſion excited by the unequal diſtribution of property—(ſentiments that are at preſent contained within bounds by the power of the laws) would then preſent the moſt terrible ſpectacle, ſince liberty would become the ally of all the paſſions that inſtigate us to the abuſe of liberty. The barriers that divide the ſavage from the civiliſed ſtate, are much ſtronger in appearance than they are in reality; they were erected many ages ago, and their very antiquity offers itſelf to our imagination as an index of their indeſtructibility.—Meanwhile, in ſober reality, a few ſimple moral principles, conſtitute theſe barriers, and one or two of theſe principles, puſhed to an extremity, would ſuffice to unite the ſpirit of independence and the ſpirit of tyranny, the equality of the early with the corruption of the later ages of hiſtory. A ſlight inattention to the executive power, in the ſtructure of a political conſtitution, may bring on this cataſtrophe and preſent us with the architype of that cloud, no bigger than a man's hand, which, appearing in the midſt of a blue and brilliant atmoſphere, terrifies the experienced navigator, and which at firſt almoſt an imperceptible point, blackens by degrees the proſpect, and prognoſticates the burſting of a terrible ſtorm." (e)

(e) See the introduction to Monſieur NECKER's work. This performance, which is, in fact, a comment upon the firſt French conſtitution, throws great light upon the tranſactions, which occurred in the early part of the French revolution: the copy uſed was itſelf printed in the year 1792. The ſentiments and manners prevalent at that period are continually cited and appealed to, for the purpoſes of illuſtration or corroboration.—

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Sir, I may perhaps be troublesome to you by the length of my quotations; but if they shall awaken reflexion in your breast—or failing there, shall rouse the vigilance of my fellow citizens, they will answer the design of the original author, and of his transcriber: they are submitted without comment.

Accept for the present, sir, my homage of all due respect and consideration.

Your fellow-citizen,

TACITUS.

LETTER VIII.

To THOMAS JEFFERSON, *Esquire, President of the United States.*

SIR,

IN my last letter I took the liberty of making considerable extracts from the valuable work of Monsieur NECKER on executive power. These I submitted without comment, presuming that their import could not fail to attract attention. The first division of those extracts presents us with the reasoning and ideas of Monsieur NECKER, in part, upon the subject of the concentration of legislative and executive powers. The

Monsieur NECKER's opportunities for information and observation, and his capacity to make the best advantage of those opportunities, cannot be questioned: his candour and truth in the representations made by him, (when we consider the time and circumstances of the publication, addressed, as it were, to those, whose sentiments and manners were painted) seem to be as little questionable. Hence a degree of credit may be yielded without hazard to his representations, which prudence would scarcely tolerate with regard to the representations of most other writers.

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ſecond diviſion exhibits ſome of his melancholy preſages of the terrible calamities, which impended over France, in conſequence of the ſubverſion of the former powers of government, and the total want of balance in the ſubſtituted ſyſtem. The horrid and bloody events, which ſhortly afterwards took place in that country, realiſed, but two ſtrictly, his anticipations: from their recency, they need not a particular recital. A brief view of the diſtreſsful ſtate, into which that want of balance threw the nation, is ſtrongly repreſented in a report made to, and accepted by, the French convention itſelf, on the 22d day of December, 1794, in the name of its five principal committees, amongſt whom the affairs of the adminiſtration were diſtributed, in conſequence of the incapacity of that body to diſcharge immediately, of itſelf, thoſe duties. "Hitherto (ſaid the Reporter, JOHANNOT) our government has been a prey to all the paſſions, which have reigned by turns, by means more or leſs violent, and under forms more or leſs popular. Let us be perſuaded, and let us proclaim it openly—it is to that perpetual change, that all our evils are owing. Our republican annals do not yet include three years, and by the multiplicity of events, twenty centuries appear required to contain them. Revolutions have followed revolutions; men, things, events, and ideas, all have changed; every thing changes yet; and in this continual ebb and flow of oppoſite movements, in vain would the government pretend to that confidence, which can only be the reſult of a ſteady and wiſe conduct, and a conſtant attachment to principles." (*a*)

The foregoing deſcription of the convulſive and revolutionary ſtate into which the French nation was

(*a*) See an extract from this report in Mr. RANDOLPH's letter of June 1ſt, 1795, to Mr. MONROE, in the appendix to Mr. MONROE's View, page 243. See alſo DEBRETT's collection, vol. 2, page 235.

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thrown, conſidering the ſource from whence it comes; though like the deſcription of the cliffs of Dover, it even in contemplation ſeems to render our mental viſion *dizzy*, yet cannot be ſuſpected of being erroneous, or overcharged: it is the repreſentation of the authors themſelves, in great part of that ſtate, when they came to be ſtricken with aſtoniſhment at the reſult of their own work. Such in fact was, and ſuch in reaſon ſeems inevitably to be, the conſequence of an unbalanced government, whether the want of that balance proceed from an organization originally defective in the diſtribution of power—or whether under an organization originally correct, it proceed from an evaſion or ſubverſion of the checks and barriers eſtabliſhed to keep ſeparate and diſtinct the operations of the great departments of power, through unfaithful ſurrender on the one hand, or unprincipled uſurpation on the other.

Amongſt the evils reſulting from ſuch a ſtate of things, are to be reckoned not only the atrocities of the paſſing ſcenes, but an unavoidable general depravation of manners and perverſion of ideas, ſpringing from the worſt paſſions of our nature, ſtimulated to a degree of madneſs, and turned looſe by the licentiouſneſs of anarchy. Whilſt thoſe atrocities render unhappy, in the extreme, the exiſting ſtate; that depravation of manners and perverſion of ideas render hopeleſs a return to any thing like "the benign influence of good laws under a free government." —Not peace, but barely aceſſation from convulſions, is all that can be hoped for, and that too from the ſterneſt military deſpotiſm.

In order to remedy the evils, under which France, agreeably to the foregoing maſterly picture, laboured in that her unbalanced ſtate, and in order to fix thoſe principles, to which a dear-bought experience had then taught the neceſſity of a conſtant attachment, an

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effort was made by the formation and adoption of a new conſtitution. That conſtitution rejected the viſionary ideas of Monſieur TURGOT for collecting all authority into one centre, and ſought to eſtabliſh a government, in which a due diſtribution of powers might be made amongſt different co-ordinate departments. A legiſlature was formed, not without attention to principles, being divided into two branches; but in relation to the executive, a moſt unwiſe experiment was hazarded, in entruſting the powers of that department to a directory of five members. The hiſtory of that part of the revolution, which fell under the directorial government, being of a ſtill more recent date, the leſs needs particular recital. The unprincipled and violent interference with the rights of election, conceded by the conſtitution to the people, which immediately took place, and was continually repeated in one form or another; the diſcord in the directory itſelf, and the attendant feuds, which prevailed in the government generally; the ſeizure of the aged, the venerable and mild BARTHELEMI, one of the members of the directorial body, and his tranſportation, together with almoſt every member of character and reſpectability in the two legiſlative councils, to Cayenne; in order that they might there periſh amidſt the putrid exhalations of that diſtant region, unpitied as unſeen, would have been ſufficient to characteriſe that government with its plural executive, had not the tale of CARNOT, another of the members of that body, doomed by his brethern to the poignards of aſſaſſins, come in aid, to unfold ſcenes, to which the whole hiſtory of human depravity furniſhes nothing equal.—*(b)*

The diſſolution of the Directory, and with it the diſſolution of the ſyſtem, of which it was a conſtituent part, were effected by the attack of the preſent

(b) See appendix, No. 12.

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Chief Conſul; not indeed ſolely, ſince the way for that diſſolution had been previouſly prepared by the tyranny of the directory itſelf, and by its inherent principles of diſcord, in conſequence of its plurality: the reſult moreover was doubtleſs facilitated by the general depravation of manners and perverſion of ideas, hoſtile to government of every form, which had ſprung as before ſtated, from previous diſorganization and anarchy.

To characterize the preſent conſular government, which has ſucceeded, is unneceſſary. Suffice it to ſay, it is ſubſtantially that, which every man, whoſe mind had not been blinded by political infatuation, had long ſince foreſeen, muſt terminate the anarchial, convulſive, and revolutionary ſtate of France, preparatory to a more ſettled order of things; and before even the civilized nations of the world could, with ſafety, come into general and peacable contact with that nation. Mr. BURKE, ſo long ſince as in the year 1793, ſpeaking of the re-eſtabliſhment of the affairs of France, falls into the following obſervations.

"What ſupport, or what limitations the reſtored monarchy muſt have, (ſaid he) may be a doubt; or how it will pitch and ſettle at laſt. But one thing I conceive to be far beyond a doubt—that the ſettlement cannot be immediate; but that it muſt be preceded by ſome ſort of power, equal at leaſt in vigour, vigilance, promptitude and deciſion, to a military government. For ſuch a preparatory government, no ſlow-paced, methodical, formal, lawyer-like ſyſtem; ſtill leſs that of a ſhewy, ſuperficial, trifling, intriguing court, guided by cabals of ladies, or of men like ladies; leaſt of all, a philoſophic, theoretic, diſputatious ſchool of ſophiſtry. None of theſe ever will, or ever can, lay the foundations of an order that can laſt. Whoever claims a right by birth to govern there, muſt find in his breaſt, or muſt conjure up in

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it, an energy not to be expected, perhaps not always to be wiſhed for, in well ordered ſtates. The lawful prince muſt have, in every thing but crime, the character of an uſurper. He is gone, if he imagines himſelf the quiet poſſeſſor of a throne. He is to contend for it, as much after an apparent conqueſt, as before. His taſk is to win it; he muſt leave poſterity to enjoy and to adorn it. No velvet cuſhions for him. He is to be always (I ſpeak nearly to the letter) on horſe-back. This opinion is the reſult of much patient thinking on the ſubject, which I conceive no event is likely to alter."—(c)

The preſent ſtate of France, it ſeems then, whatſoever it be, whether it be a ſtate preparatory to the reſtoration of the ancient order of things, or whether it be the eſtabliſhment of a new dynaſty, is the neceſſary conſequence of the wild, impracticable theories, and innovating ſpirit, which prevailed in the commencement of her revolution. Her conſular government, whatever may be its character, is a portion of that conſequence. The reſult, we find, was long ſince ſubſtantially anticipated by political ſagacity, and has been verified in the event. The connection of each ſtep, in the progreſs of the drama, from the commencement of the firſt act to the final cataſtrophe, is now eaſy to be traced; whilſt the ſcenes and their ſucceſſive changes are yet freſh in memory. Who, after this, can doubt the tendency of a concentration of legiſlative and executive powers, or the effects of a *plural* executive?

"The political liberty of the ſubject is a tranquillity of mind, (ſays MONTESQUIEU) ariſing from an opinion each perſon has of his ſafety. In order to have this liberty, it is requiſite the government be ſo conſtituted as one man need not be afraid of another.

(c) See Mr. BURKE's Poſthumous Works, part 1ſt, page 185.

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"When the legiſlative and executive powers are united in the ſame perſon, or in the ſame body of magiſtrates, there can be no liberty; becauſe apprehenſions may ariſe, leſt the ſame monarch, or ſenate, ſhould enact tyrannical laws, to execute them in a tyrannical manner.

"Again, there is no liberty, if the power of judging be not ſeparated from the legiſlative and executive powers. Were it joined with the legiſlative, the life and liberty of the ſubject would be expoſed to arbitrary control; for the judge would be then the legiſlator. Were it joined to the executive power, the judge might behave with all the violence of an oppreſſor.

"There would be an end of every thing, (concludes MONTESQUIEU) were the ſame man, or the ſame body, whether of the nobles, or of the people, to exerciſe thoſe three powers, that of enacting laws, that of executing the public reſolutions, and that of judging the crimes, or differences, of individuals." (*d*)

"It is important likewiſe, (ſaid WASHINGTON) that the habits of thinking, in a free country, ſhould inſpire caution in thoſe entruſted with its adminiſtration, to confine themſelves within their reſpective conſtitutional ſpheres, avoiding in the exerciſe of the powers of one department to encroach upon another. The ſpirit of encroachment tends to conſolidate the powers of all the departments in one, and thus to create, (whatever may be the form of government,) a real deſpotiſm. A juſt eſtimate of that love of power, and proneneſs to abuſe it, which predominates in the human heart, is ſufficient to ſatisfy us of the truth of this poſition. The neceſſity of reciprocal checks in the exerciſe of political power, by dividing and diſtributing it into different depoſitaries, and conſtituting

(*d*) MONTESQUIEU's Spirit of Laws.—Book 11, chapter 6.

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each the guardian of the public weal, againſt invaſions by the others, has been evinced by experiments ancient and modern: ſome of them in our country and under our own eyes. To preſerve them muſt be as neceſſary as to inſtitute them." (e)

If, ſir, the wiſdom of MONTESQUIEU, and the benevolent warnings of WASHINGTON, have loſt any thing of their weight, by the change of times in this new and boaſted æra, of your adminiſtration; ſurely the tremendous and awful warnings of revolutionary and conſular France ought to be ſufficient to awaken to apprehenſion the mind of the moſt adventurous innovator, to rouſe to feeling the indifference of political apathy, and to heal even the blindneſs of political infatuation itſelf.

The wild theories, which prevailed in France, may have originated, and probably did originate in part, in honeſt, well-meaning error: where ſuch has been the caſe, however lamentable the conſequences, thoſe who beſt know how difficult it is to impreſs on mankind the importance of ſome of the moſt weighty truths, ſave by the reſult of their own experience, will not be backward to yield a generous portion of allowance and ſympathy. But who, at the preſent period, ought to be admitted to ſet up, by way of palliation or excuſe, a plea of ignorance of the tendency of principles, calculated to concentrate the legiſlative and executive powers of government? If there be, by poſſibility, any who ought be admitted to ſuch plea; yet, Sir, you of all men muſt be excluded from that admiſſion. Brought up from your infancy in a country, where the principles of the diviſion of power had acquired the force and authority of fundamental maxims, uſed and approved by our an-

(e) WASHINGTON's farewell addreſs. See inſtances cited in five valuable letters lately publiſhed by a friend to the conſtitution.

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ceſtors from time, to the contrary whereof the memory of man runneth not, you had long ſince (previous to the warnings of revolutionary France) become fully ſenſible of, and had admitted their importance. In the year 1774 you plainly alluded to theſe principles, amongſt others, when, in ſpeaking of the migrations of the Saxons "from their native wilds and woods in the North of Europe," you were pleaſed to ſtate that they "had poſſeſſed themſelves of the iſland of Britain, then leſs charged with inhabitants, and had eſtabliſhed there that ſyſtem of laws which has ſo long been the glory and protection of that country."(*f*) In the year 1782 you were pleaſed to teſt, by theſe principles, the conſtitution of your native ſtate: your words upon this ſubject, though in the hands of moſt men, are ſo appoſite to my preſent purpoſe, that I truſt, I ſhall be excuſed for inſerting them. In reviewing the defects of the conſtitution of Virginia, you are pleaſed, under your fourth head or diviſion, to uſe the following obſervations.

"All the powers of government, legiſlative, executive, and judiciary, reſult to the legiſlative body. The concentrating theſe in the ſame hands is preciſely the definition of deſpotic government. It will be no alleviation, that theſe powers will be exerciſed by a plurality of hands, and not by a ſingle one. One hundred and ſeventy three deſpots would ſurely be as oppreſſive, as one. Let thoſe who doubt it turn their eyes on the republic of Venice. As little will it avail us, that they are choſen by ourſelves. An elective deſpotiſm was not the government we fought for; but one which ſhould not only be founded on free principles, but in which the powers of government ſhould be ſo divided and balanced among ſeveral bodies of magiſ-

(*f*) Summary View of the Rights of Britiſh America, page 6. —Reprinted by J. DUNLAP, 1774.

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tracy, as that no one could tranſcend their legal limits; without being effectually checked and reſtrained by the others. For this reaſon that convention, which paſſed the ordinance of government, laid its foundation on this baſis, that the legiſlative, executive and judiciary departments ſhould be ſeparate and diſtinct, ſo that no perſon ſhould exerciſe the powers of more than one of them at the ſame time. But no barrier was provided between theſe ſeveral powers. The judiciary and executive members were left dependent on the legiſlative, for their ſubſiſtence in office, and ſome of them (the members of the executive council) for their continuance in it. If therefore the legiſlature aſſumes executive and judiciary powers, no oppoſition is likely to be made, nor, if made, can it be effectual, becauſe in that caſe they may put their proceedings into the form of an act of aſſembly, which will render them obligatory on the other branches. They have accordingly, in many inſtances decided rights, which ſhould have been left to judiciary controverſy: and the direction of the executive, during the whole time of their ſeſſion, is becoming habitual and familiar. And this is done with no ill intention. The views of the preſent members (in 1782) are perfectly upright. When they are led out of their regular province, it is by art in others, and inadvertence in themſelves. And this will probably be the caſe for ſome time to come. But it will not be a very long time. Mankind ſoon learn to make intereſted uſes of every right and power, which they poſſeſs, or may aſſume. The public money and public liberty, intended to have been depoſited with three branches of magiſtracy, but found inadvertently to be in the hands of one only, will ſoon be diſcovered to be ſources of wealth and dominion to thoſe who hold them; diſtinguiſhed too by this tempting circumſtance, that they are the inſtrument, as well as the object of acquiſition. With money we will get

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men, ſaid CÆSAR, and with men we will get money. Nor ſhould our aſſembly be deluded by the integrity of their own purpoſes, and conclude that theſe unlimited powers will never be abuſed, becauſe themſelves are not diſpoſed to abuſe them. They ſhould look forward to a time, and that not a diſtant one, when corruption in this, as in the country from which we derive our origin, will have ſeized the heads of government, and be ſpread by them through the body of the people; when they will purchaſe the voices of the people, and make them pay the price. Human nature is the ſame on every ſide of the Atlantic, and will be alike influenced by the ſame cauſes. The time to guard againſt corruption and tyranny, is before they ſhall have gotten hold on us. It is better to keep the wolf out of the fold, than to truſt to drawing his teeth and talons after he ſhall have entered."

Under your ſixth head or diviſion, you are pleaſed to ſtate amongſt other things, that "in December 1776, our circumſtances being much diſtreſſed, it was propoſed in the houſe of delegates to create a dictator, inveſted with every power legiſlative, executive, and judiciary, civil and military, of life and of death, over our perſons and over our properties: and in June 1781, again under calamity, the ſame propoſition was repeated, and wanted a few votes only of being paſſed." And near the cloſe of that article, you are pleaſed to obſerve, "ſearching for the foundations of this propoſition, (for creating a dictator) I can find none, which may pretend a colour of right or reaſon, but the defect before developed, that there being no barrier between the legiſlative, executive, and judiciary departments, the legiſlature may ſeize the whole; that having ſeized it, and poſſeſſing a right (by aſſumption only) to fix their own quorum, they may reduce that quorum to one, whom they may call a chairman,

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ſpeaker, dictator, or by any other name they pleaſe." (g)

Can demonſtration more compleat be deſired, Sir, of your perfect knowledge of the tendency of the concentration of the powers of government, than the publication and repeated re-publication of ſentiments and obſervations, ſuch as the foregoing?

After having ſtated, Sir, that "the concentrating the powers of government, legiſlative, executive and judicial in the ſame hands is preciſely the definition of deſpotic government; after having declared, that "it will be no alleviation, that theſe powers will be exerciſed by a *plurality* of hands, and not by a ſingle one;" after having declared, that "as little will it avail us, that they are choſen by ourſelves;" after having declared that "ſearching for the foundations of this propoſition" (repeatedly made in your native ſtate for creating a dictator, inveſted with every power legiſlative, executive and judicial, civil and military, of life, and of death, over our perſons and over our properties) "you could find none which might pretend a colour of right or reaſon, but the defect before developed, that there being no barrier between the legiſlative, executive, and judiciary departments, the legiſlature might ſeize the whole:" What, I ſay, after theſe things, are we to think of your declaration, made at the moment of your entering into the excutive functions of your ſtation, that you looked with encouragement for guidance, to thoſe charged with the ſovereign functions of legiſlation?

The principles, neceſſarily involved in that declaration, have conſtituted the principal object of the preſent enquiry. In the courſe of my enquiry, I have endeavoured alſo to demonſtrate certain incidental points, intimately connected with the principal object,

(g) Notes on Virginia. Query 13. and Reply.

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and of the truth of which, from the moſt attentive obſervation, I felt myſelf under the moſt abſolute conviction. The firſt of theſe incidental points was the exiſtence of a ſyſtem of inveterate hoſtility againſt the conſtitution of the United States, uniformly and ſteadily purſued from the adoption of the government to the moment of your preſent elevation: the ſecond of thoſe incidental points was, Sir, your participation in that inveterate hoſtility, for a long time ſuſpected, but ſtudiouſly concealed by extravagant and inſincere profeſſions, till it was at length fairly brought to light. Whether I may have been ſucceſsful in impreſſing a conviction, ſimilar to my own, on the minds of others, in relation to theſe points, I know not; but the grounds of my conviction are fairly before the public, and open to diſcuſſion: that diſcuſſion is invited; for if I be in an error, it would be to me, and doubtleſs to many others, who have not known what to make of theſe things, a ſource of infinite ſatisfaction to be convinced of the right. The foregoing points being eſtabliſhed, from a correct review of authenticated and notorious evidence, as is ſuppoſed; the tendency of the principles involved, Sir, in your declaration recurred: that tendency has been ſhewn from authorities the moſt reſpectable, and from the reſults of recent experience upon the moſt conſpicuous theatre of the political world. In fine, Sir, that tendency, and your perfect knowledge of that tendency, long previous to any recent events, are now demonſtrated in your own words. It only remains for your fellow citizens to judge of the motives and views, which could have influenced you in the choice of the courſe, which you have avowed. They doubtleſs are competent to decide, whether it be a reaſonable inference, that he who avows his purſuit of a certain courſe, neceſſarily involving certain principles, with a perfect knowledge of the tendency of thoſe principles, thereby intends

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certain consequences conformable to that tendency. If those principles necessarily tend to produce a concentration of the powers of government, and that concentration be precisely the definition of despotic government, it necessarily follows, that the establishment of despotic government is the object aimed at in the adoption of such course and principles.

Your fellow citizens then cannot be at a loss for your motives and views, especially when they shall duly appreciate, as doubtless they will, your sage reflections, that "mankind soon learn to make interested uses of every right and power, which they possess, or may assume:" that "the public money and public liberty intended to have been deposited with three branches of magistracy, but found inadvertently to be in the hands of one, will soon be discovered to be sources of wealth and dominion to those who hold them; distinguished too by this tempting circumstance, that they are the instrument, as well as the object, of acquisition." Your fellow citizens, sir, cannot be at a loss, duly to estimate your anxiety for the safety of their rights, and the sincerity of your tender feelings for the poor, when they recollect, with what degree of candour and sincerity your conduct towards others has been marked. Revolving these things, they will doubtless weigh well your admonition, now nearly of twenty years standing, that "they should look forward to a time, and that not a distant one, when corruption in this, as in the country from which we derive our origin, will have seized on the heads of government and be spread by them (in attempt, we hope only) through the body of the people; and when they will purchase the voices of the people, and make them pay the price." Whether the period, anticipated, has now arrived can only be determined from a general and connected view of the principles and conduct of those, who possess an ascendency in power. But what may not

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be reaſonably apprehended, (notwithſtanding any profeſſions, which have been, or can be made, *(b)* from thoſe who have been found capable of calumniating, in the fouleſt manner, the firſt worth of our country, and whilſt that calumny remained in confidence, were ſtill capable of external profeſſions of the moſt profound reſpect for that worth?

Having, ſir, gone through with my examination of your political principles upon the point propoſed in my ſecond letter, I ſubmit it to the judgment of my fellow citizens, whether in this eſſay for the diffuſion of information, I be juſtly chargeable with contributing to "an ocean of calumny under which it has been thought expedient to endeavour to overwhelm your name" whilſt I have uniformly ſupported every poſition by ſpecific evidence? whether, in arraigning at the bar of public reaſon the ſubjects of my animadverſions, I have not arraigned abuſes of a tendency moſt dangerous to the conſtitution, and to all the important objects of its eſtabliſhment! and finally whether in doing theſe things, I have exceeded the right or deviated from the duty common to all citizens?

Accept, ſir, the homage of my due reſpect and conſideration.

Your fellow-citizen,

TACITUS.

(b) See Mr. JEFFERSON's Inaugural Addreſs March 4th 1797, as well as that of March 4 1801, appendix No. 13 and 14.

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LETTER IX.

To THOMAS JEFFERSON, *Eſquire, Preſident of the United States.*

SIR,

YOUR aſſent to a late act of Congreſs, for the purpoſe of repealing a law of the preceding ſeſſion, for the more convenient organization of the courts of the United States, being announced in due form, it ſeems to be an incident too important to be neglected in a review of your political principles and conduct. This act is obviouſly levelled at the independency of the judiciary of the United States. Its avowed object is to remove from office, without the imputation of miſconduct, judges, who, by the explicit terms of the conſtitution, were to "hold their offices during good behaviour."

The power to effect this object was doubtleſs greatly deſired by thoſe who wiſhed to give full ſcope to party vengeance, eſpecially the eager expectants of office; but the fruitful minds of the moſt intelligent of your partizans, previous to the meeting of Congreſs, ſeem to have been at a loſs both for a pretext and the means. Even judge PENDLETON of Virginia, though impelled by a vehemence of devotion to your views, which erafed from his mind the recollection of a former exertion headed by himſelf, in defence of judicial independence, could diſcover no mode under the exiſting conſtitution of the United States, ſave that of impeachment. To ſuſtain a procedure of that ſort, proof of official miſbehaviour was neceſſary. All pretext for ſuch charge was wanting. He was therefore compelled, (as he ſeems to have conceived) to content himſelf with a propoſition for ſo altering the conſtitution of the United States, in the forms pre-

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ſcribed by that inſtrument, as to authorize the removal of the judges "by the concurring vote of both houſes of congreſs." (*a*) Had he conceived, that an act of congreſs, ſubſtantially the ſame with the alteration which he propoſed, was competent to the ſame object, is it probable that his impatience would have brooked the delay, neceſſarily attendant on every regular conſtitutional amendment or alteration? The fact, that ſuch propoſition was made by Mr. PENDLETON on the one hand, and the enaction of this law on the other, concluſively prove one of two things; either the ignorance of Mr. PENDLETON of the import and extent of the proviſions of the conſtitution of the United States, in relation to the tenure of the offices of the judges; or the violation of the conſtitution by thoſe who had ſolemnly ſworn to ſupport, and by him, who had as ſolemnly ſworn to preſerve, protect and defend that inſtrument, ſo eſſential to the union, peace and happineſs of our country.

High-handed, as ſeemed this meaſure to Mr. PENDLETON, it now appears, ſir, to have been contemplated by you, in your addreſs to congreſs at the commencement of the preſent ſeſſion. Your obſervations, it is true, (according to the courſe uſually characteriſtic of thoſe, who deſign to make of others blind inſtruments of their unexplained deſigns) were conceived in terms of vague and general import, capable of being conſtrued into various meanings, according to circumſtances ſubſequently to be explored. (*b*) The mode of exploring what remained to be

(*a*) See the addreſs of judge PENDLETON of Virginia, under the motto, "The danger not over,"—propoſition 3d; publiſhed in the Waſhington Federaliſt of November 16, 1801, from the Examiner, a paper publiſhed in Virginia.

(*b*) For the expreſſions alluded to ſee appendix No. 14.

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known in relation to this ſubject, before a deciſive courſe ſhould be taken; we are no longer at a loſs to conceive, if the declaration made on the floor of congreſs (by the honourable gentleman who heretofore proclaimed, with apparent ſatisfaction, the ſetting of the Sun of Federaliſm) be correct, and who can queſtion its correctneſs?

A half-dozen confidential members of either houſe of congreſs, being cloſetted before the formal introduction of a meaſure, and being thus initiated into the ſecrets of the cabinet, become moſt convenient auxiliaries in aſcertaining the practicability of any favorite meaſures, previouſly planned and deſigned. According to their report, a definite ſenſe might be affixed, in due time, to terms before indefinite: or an object, when found to be impracticable, might be abandoned altogether, without being ever drawn from behind the curtain of vague generality. In caſe of ſuch abandonment, on a diſcovery of a defect of neceſſary ſubſerviency, ſhould the ſcrutinizing eye of political vigilance chance to eſpy the object really contemplated, and dare to arraign it at the bar of public reaſon, ſuch generality of terms might moreover furniſh a fair pretext for charging any ſuggeſtion of ſuch object, to a diſpoſition to overwhelm your name in an ocean of calumny.

The precious debate, ſir, which has furniſhed a foundation for the remarks immediately preceding; (whilſt the independence of ſentiment, diſplayed in the diſcloſure, does real honour to the principal character engaged in that debate) will probably deſerve the attention of the public on more occaſions than the preſent: it will furniſh, if we be not greatly deceived, a correct explanation throughout of your ſingular condeſcention in looking with encouragement for guidance to thoſe charged with the ſovereign functions of legiſlation. In the cloſet ſome half-dozen

members being initiated into the plans and views of the adminiſtration, are there to be taught the mode of that guidance, which may be acceptable to your ſovereign will and pleaſure. To the propoſitions to be made by any of theſe half dozen, a majority of their brethern are to be trained, if poſſible, to give their ſupport, not only without information, but occaſionally in a courſe even of ſilent legiſlation. (*c*) Such, ſir, at leaſt ſeems to be the obvious tenor of this ſingular diſcloſure, confirmed by as ſingular occurrences, during the preſent ſeſſion. (*d*) But whatever may have been the courſe obſerved, in relation to the principal object of the preſent diſcuſſion, it is no longer material to perplex ourſelves with conjectures; ſince the meaſure has been effected and your ſanction, fixing the meaning of the terms uſed in your addreſs, is now matter of the higheſt publicity.

Painful as is the knowledge of the completion of this meaſure, your ſanction, ſir, has excited no ſurpriſe. Previous to the commencement of the preſent ſeſſion of congreſs; nay, ſir, at the very moment when your ſentiments were firſt proclaimed in favour of the concentration of the legiſlative and executive powers of the government, it was foreſeen that the independence of the judiciary would be the firſt object of attack, if the ſucceſs of that attack could be, in any tolerable degree aſcertained. It was hoped, however, that few were poſſeſſed of ſuch hardihood, as to diſregard the moſt acknowledged principles of ſound policy, when ſpecifically enjoined with the utmoſt ſolemnity of conſtitutional ſanction, and in terms

(*c*) See the ſpeech of the honourable Mr. DAVIS in appendix No. 15, taken from the Waſhington Federaliſt of February 16, 1802.

(*d*) See particularly the Waſhington Federaliſt of February 5. 1802, for the mode of rejecting a call for information, and alſo a ſpecimen of dumb legiſlation. See alſo Appendix, No. 16, for a part of the debate.

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ſo plain, that he that runs may read. It was hoped, if neither the ſolemn official obligation to ſupport the conſtitution nor a regard for its principles could reſtrain the headlong ſpirit of party; that yet a dread of the reſentment of the people, (who aſſuredly wiſh the preſervation of the conſtitution, and conſequently of the independence of the judiciary, one of its moſt important and valuable features) would have ſtood as an inſuperable barrier in the way of this attempt. The diſappointment of theſe hopes is a ſource of real ſurpriſe, and profound regret. But the meaſure being effected, it were idle now to remonſtrate with thoſe who have actively co-operated or even with thoſe who have reluctantly ſuffered themſelves to be dragged along to concurrence, in this unfortunate tranſaction: they muſt be left to awaken to remorſe, as times and events ſhall diſcloſe the effects of their infatuation. It were equally idle to dwell on the particular injuries of theſe, who by this meaſure are to be deprived, without cauſe, of their official ſtations. Injuſtice, indeed, in every form deſerves our reprobation: but did the injuries ſuſtained relate ſolely to the individuals who ſuffer, they might be carried to that general account in which it has been admitted, even the beſt were to ſhare; and of which, when every diſcount ſhall have been admitted, and ſhall be found to be inſufficient in a day of impartial reckoning, charity would be diſpoſed to cloſe the balance, by an allowance, as of grace, to the frailty of poor human nature. But the injuries reſulting from this meaſure ſtop not with the individuals: the independence of the judiciary, and the impartial adminiſtration of juſtice, are inſeparably connected, both by the conſtitution and in the nature of things, with the permanency of the commiſſions of the judges during good behaviour. The emoluments of office, attached to ſuch commiſſions, may be

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the rights of the individuals; but the independence of the judiciary, inſeparable from that permanency, is ſomething more than individual right: it is one of the moſt important and valuable public rights of the people of the United States, eſſential to the preſervation of every other right, whether of life, of liberty, of property, not only in relation to the preſent generation, but in relation to millions yet unborn.

Of the foregoing truths none, ſir, have been heretofore under ſtronger conviction than yourſelf. Your own words have been, in a preceding letter, quoted, demonſtrating—1. Your knowledge of the tendency of a concentration of the legiſlative, executive and judicial powers of government, to create a deſpotiſm—2dly. Your full conviction that neither a plurality of hands, nor the elective nature of our government would in any degree palliate that deſpotiſm, if introduced by ſuch concentration—3dly. Your earneſt deſire, that "the powers of government ſhould be ſo divided and balanced among ſeveral bodies of magiſtracy, as that no one could tranſcend their legal limits without being effectually checked and reſtrained by the others"—4thly. Your regret, when on any occaſion you perceived that "no barrier was provided between theſe ſeveral powers"—and 5thly. Your admiſſion, that to leave "the judiciary and executive members dependent on the legiſlative for their ſubſiſtence in office," and ſtill more to leave them dependent "for their continuance in it," was to expoſe "the executive and judiciary powers" to legiſlative aſſumption, and to render oppoſition ineffectual againſt ſuch aſſumption, whenever it ſhould be attempted. But the means, ſir, which you yourſelf, of your own mere motion and free will, propoſed, in order to eſtabliſh barriers againſt this aſſumption and conſequent concentration of powers, neceſſarily reſulting in deſpotiſm, remain to be

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diſcloſed. To this diſcloſure your attention is now particularly ſolicited. If it be not in your power to reconcile your aſſent to the late law, levelled at the independence of the judiciary of the United States, with the principles heretofore maintained by you; it may behove you to conſider, whether it be not requiſite to prepare to meet that juſt indignation of an injured people, which your ſingular departure from thoſe principles muſt aſſuredly, ere long, bring upon you. Since it is to you and to you only that the people of theſe United States muſt and ought to look, as the chief author, as well as final ſanctioner of this unhappy meaſure. Your auxiliaries will probably be viewed, as it is preſumed they ought to be, ſimply, as ſubordinate agents and inſtruments in your hands.

Diſſatisfied with the exiſting conſtitution of your native ſtate, becauſe, though the foundation of the government was laid on this correct baſis, that the legiſlative, executive, and judiciary departments ſhould be ſeparate and diſtinct, no barrier was provided between theſe ſeveral powers; you, ſir, in your high concern, "to declare thoſe fundamentals to which all our laws, preſent and future, ſhould be ſubordinate" were pleaſed heretofore to prepare "the draught of a fundamental conſtitution for the commonwealth of Virginia."—This, ſir, your vanity, or your evil genius, induced you to give to the world, by way of appendix to your Notes on Virginia: in that draught you propoſed, in definite form, thoſe barriers which you conceived requiſite to preſerve the independence both of the executive and judicial departments, againſt the undue enterpriſes of legiſlative uſurpation. (e)

After declaring, in that draught, that "the powers of government ſhall be divided into three diſtinct departments, each of them to be confided to a ſeparate

(e) See the appendix to the notes on Virginia, No. 2.

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body of magiſtracy; to wit, thoſe which are legiſlative to one, thoſe which are judiciary to another, and thoſe which are executive to another." That "no perſon or collection of perſons, being of one of theſe departments, ſhall exerciſe any power properly belonging to either of the others, except in the inſtances, herein after expreſsly permitted," you were pleaſed to proceed to the formation of thoſe departments reſpectively.

In relation to the judiciary, we find the following proviſions.

"The judiciary powers ſhall be exerciſed by County Courts and ſuch other inferior courts, as the legiſlature ſhall think proper to continue or to erect: by three Superior Courts, to wit, a Court of Admiralty, a General Court of common law, and a High Court of Chancery."

"The judges of the high court of chancery, general court, and court of admiralty, ſhall be four in number each, to be appointed by joint ballot of both houſes of aſſembly, and to hold their offices during good behaviour."

Thus we find, that the judges of your three ſuperior courts were "to hold their offices during good behaviour," without any other reſtriction or limitation whatſoever. The extent of the meaning, annexed by you to thoſe terms, were they otherwiſe doubtful in their import, is concluſively aſcertained, by a ſubſequent proviſion, in the ſame draught, relative to the "juſtices or judges of the inferior courts." After declaring that they alſo "ſhall hold their offices during good behaviour," you thought it requiſite to add, "*or the existence of their court*," thereby admitting, in the cleareſt manner, that had the tenure of their offices, like the tenure of the offices of the judges of your three ſuperior courts, been without this additional reſtriction or limitation, though a power ſhould

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exiſt in the legiſlature to modify thoſe inferior courts, yet no modification could, conſiſtently with the terms of that tenure, have operated an extinction of their offices.

The conſtitution of the United States adopts ſpecifically the ſame terms, in relation to the judges both of the ſupreme and inferior courts, as you, Sir, had previouſly adopted and reſtricted to your three ſuperior courts.

"The judges, both of the ſupreme and inferior courts, ſhall hold their offices during good behaviour."

Is it poſſible then, Sir, for any political Proteus whatſoever, to find the ſemblance of a pretext for attributing a different meaning to the ſame words, when uſed in the conſtitution of the United States, and when uſed by you, *and concluſively explained*, in an analogous caſe? With all the authority of your eminent ſtation, and with all the countenance to be afforded to you by your devoted adherents, can you poſſibly do otherwiſe, than ſhrink under a conviction of ſuch inconſiſtency, when arraigned *at the bar of public reaſon* before the people of the United States?

The judges then of the United States, both of the ſupreme and inferior courts, ſtanding upon ground, ſo far as theſe words can place them, equally inacceſſible to the rightful approaches of legiſlative power, with the judges of your three ſuperior courts; let us enquire whether any variance in ſubſequent proviſions renders the ground, thus occupied, leſs tenable in the caſe of the judges of the United States, than in the caſe of thoſe judges of your three ſuperior courts.

By the conſtitution of the United States it is declared, that "the judges both of the ſupreme and inferior courts ſhall, at ſtated times, receive for their ſervices, a compenſation, which ſhall not be diminiſhed during their continuance in office."

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By your draught, the judges of your three ſuperior courts were to " be allowed for the preſent each by the year, payable quarterly out of any money in the public treaſury. Their ſalaries, however, may be increaſed or abated, from time to time, at the diſcretion of the legiſlature, provided ſuch increaſe or abatement ſhall not, by any ways or means, be made to affect, then or at any future time, any one of thoſe then actually in office."

Did you, Sir, intend by this proviſion to take care, that thoſe judges, who were to hold their offices during good behaviour," without further reſtriction or limitation, ſhould be as little dependent upon the legiſlature for their ſubſiſtence, as for their continuance in office ? If ſo, are not the terms of the conſtitution of the United States equally imperative ? The times of payment being once ſtated by law, become equally fixed under the guaranty of the conſtitution of the United States, as the quarterly payments under your draught. Does the reſtriction in your draught upon the legiſlature, in the exerciſe of the conceded power to increaſe or abate from time to time at diſcretion the ſalaries of the judges, declaring that " ſuch increaſe or abatement ſhall not by any ways or means be made to affect, either then or at any future time, any one of thoſe then actually in office," more compleatly guard the independence of the judges, by ſecuring the certainty of their compenſation, than the plain and ſimple proviſion of the conſtitution of the United States, equally prohibiting all diminution, and permitting an increaſe, in caſe of an increaſe of duties, or the exiſtence of other circumſtances, where ſound diſcretion would authoriſe that increaſe ?

The very terms, ſir, in which your reſtriction is conceived, were it not, that the preſent period excludes all mirthful ſenſations, would be ſufficient to excite a ſmile in the graveſt philoſopher. Surely, ſir,

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whilſt penning theſe terms you muſt have had a preſentiment of the ridiculous quibbles, which have been lately reſorted to, or you never could have thought of tying up the hands of an unprincipled legiſlature, which might be diſpoſed to invade the conſtitutional independence of the judiciary, with all the redundant expreſſions of a pettyfogging attorney, endeavouring to cloak the fraudulent nature of a fraudulent conveyance. Until it ſhall be ſolemnly adjudged by thoſe to whom the conſtitution of the United States has aſſigned the power to judge, that an object may be indirectly effected, which is directly and totally prohibited by the conſtitution, I ſhall continue to think, and I truſt, the great body of the American people will think in like manner, that the judges both of the ſupreme and inferior courts of the United States are, (if the conſtitution of the United States be really obligatory upon thoſe who have *ſworn, either to ſupport, or to preſerve, protect and defend it*) equally independent of the legiſlature of the United States, for their ſubſiſtence in office, as the judges of your three ſuperior courts; notwithſtanding the omiſſion of your ſingular precaution, in the general and ſolemn proviſion of the conſtitution on that ſubject.

Are other means provided, in the conſtitution of the United States, for the removal of the judges either of the ſupreme or of the inferior courts of the United States, than what are to be found in your draught, for the removal of the judges of your three ſuperior courts? You, ſir, have provided in your draught a court of impeachments. "There ſhall moreover be a court of impeachments to conſiſt of three members of the council of ſtate; one of each of the ſuperior courts of chancery, common law, and admiralty, two members of the houſe of delegates and one of the ſenate, to be choſen by the body reſpectively of which they are. Before this court any member

of the three branches of government, that is to say, the Governor, any member of the council of the two houſes of the legiſlature, or of the ſuperior courts, may be impeached by the Governor, the council, or either of the ſaid houſes or courts, and by no other, for ſuch miſbehaviour in office as would be ſufficient to remove him therefrom: and the only ſentence they ſhall have authority to paſs, ſhall be that of deprivation, and future incapacity of office. Seven members ſhall be requiſite to make a court, and two thirds of thoſe preſent muſt concur in the ſentence. The offences cognizable by this court, ſhall be cognizable by no other, and they ſhall be triers of the fact, as well as judges of the law."

The conſtitution of the United States in like manner provides a court of impeachments.

"The houſe of repreſentatives ſhall have the ſole power of impeachments."

"The ſenate ſhall have the ſole power to try all impeachments. When ſitting for that purpoſe, they ſhall be on oath or affirmation. When the Preſident of the United States is tried, the chief juſtice ſhall preſide: and no perſon ſhall be convicted without the concurrence of two thirds of the members preſent."

"Judgment in caſes of impeachment, ſhall not extend further than to removal from office, and diſqualification to hold and enjoy any office of honour, truſt, or profit, under the United States. But the party convicted ſhall nevertheleſs be liable and ſubject to indictment, trial, judgment, and puniſhment according to law."

"The Preſident, Vice-Preſident, and all civil officers of the United States, ſhall be removed from office, on impeachment for and conviction of treaſon, bribery, or other high crimes and miſdemeanors."

"The trial of all crimes, except in caſes of impeachment, ſhall be by jury."

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Upon a review of the powers of theſe reſpective courts of impeachment, they appear to be ſubſtantially the ſame; notwithſtanding the variance in the modes of compoſing thoſe bodies, and in the manner of depoſiting the power of impeachment. So far as relates to the ſubject before us, the judges of the United States, to whom the adminiſtration of juſtice is peculiarly aſſigned, and who therefore, (if any) may be emphatically ſtiled "civil officers of the United States" are under that deſcription, expreſsly liable to be removed from their offices, which they "hold during good behaviour," "on impeachment for and conviction of treaſon, bribery, or other high crimes and miſdemeanors," as are the judges, in like manner, of your three ſuperior courts, who were alſo "to hold their offices during good behaviour," "for ſuch miſbehaviour in office, as would be ſufficient to remove them therefrom."

If by the proviſion in your draught, that the offences cognizable by the court of impeachments ſhould be cognizable by no other court, it was intended (as manifeſtly it was) to protect all officers, who were to hold their offices during determinate conſtitutional periods, and the judges of your three ſuperior courts, who were "to hold their offices during good behaviour," without other reſtriction or limitation, againſt removal from office, by any other ways or means, during their reſpective conſtitutional terms, and tenures; are we not equally authoriſed to infer from the nature of the government of the United States, that the power of removal from office, being expreſsly and ſpecifically given to the ſenate, as a court of impeachment, to be exerciſed in a certain manner and form, the Preſident, the Vice Preſident and all civil officers of the United States who hold their offices during determinate conſtitutional periods, and the judges of the United States, both of the ſupreme and

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inferior courts, who "hold their offices during good behaviour without other reſtriction or limitation, are not liable to removal, by any other ways or means, unleſs ſpecifically preſcribed, during their reſpective conſtitutional terms and tenures?

It has been heretofore contended that an enumeration of powers was eſſentially a reſtriction againſt the arrogation of other powers, not within the terms of the enumeration. If this doctrine be correct (as aſſuredly it is, when applied by juſt diſcernment according to the principles of fair conſtruction;) muſt not the ſpecific delegation of a particular power, to a particular body, to be exerciſed in a particular manner, exclude the exerciſe of that power by that body, in any other manner or form, than that preſcribed? Upon what principle then can the Senate of the United States (who, even in caſes of "treaſon, bribery, or other high crimes and miſdemeanors," are incompetent to convict, unleſs by a "concurrence of two thirds of the members preſent," ſo as to juſtify a removal from office) be reputed competent in a caſe, where not even a pretext for a charge of any offence whatſoever can be found, to ſanction, by a bare majority, a meaſure avowedly deſigned to produce the ſame reſult? Muſt not the ſpecific delegation of the power, to remove from office thoſe, who "hold their offices during good behaviour," to the ſenate, to be exerciſed "on impeachment for, and conviction of treaſon, bribery, or other high crimes and miſdemeanors," by "the concurrence of two thirds of the members preſent" of that body, ſtill more forcibly preclude the aſſumption of that power by another body, to be exerciſed in a manner and form totally different from that preſcribed? Upon what principle then can it be maintained, that the houſe of repreſentatives (whoſe interference with a view to removals from office, even in caſes of "treaſon, bribe-

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ry, or other high crimes and misdemeanors," except in relation to members of their own body, (*f*) is expressly restricted to "the sole power of impeachment") are competent, in the total absence of every pretext for such charges, to participate, in a legislative capacity, in a measure, designed to remove from office those whom the constitution had explicitly declared should "hold their offices during good behaviour," and concerning whose removal, in the cases specified, it had prescribed the foregoing explicit provision? Can the concurrence or admission of the senate, even when aided, sir, with your high sanction, give validity to such participation? But when it is further considered, that the powers of congress are not only enumerated, and that the power of removing the judges, either of the supreme or inferior courts of the United States, is not only not given to that body in its legislative capacity; but, so far as provisions establishing the tenure of good behaviour and securing the certainty of undiminished compensation during that tenure, can go, is clearly prohibited; must not every man, however plain his understanding and however unaccustomed to the tedious and sometimes perplexing deductions of reason, at once perceive that no pretext remains for asserting, that the judges of the United States, either of the supreme or inferior courts, are by any ways or means, more dependent upon the legislature of the union, than the judges of your three superior courts were intended by you to be, on your proposed legislative department?

Are there other provisions in your draught, which were designed to give to the judicial department a more substantial independence, than was intended un-

(*f*) "Each house (of Congress) may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two thirds expel a member." Constitution of the United States, article 1, section 5, par. 2.

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der the conſtitution of the United States? If there be, thoſe proviſions would ſtill rather prove the ſtrength of your former convictions of the importance of judicial independence generally, than juſtify a ſuppoſition of your contemplating a difference in degree. In no inſtance were the judges, either under your draught, or the conſtitution of the United States, to be protected beyond the bounds of good behaviour. Whatever additional proviſions, therefore, may have been adopted or propoſed in the one inſtrument or the other they can be correctly referred only to the protection of the ſame meaſure of independence. That meaſure being known, whether further ſpecific proviſions for its protection be made or not, the knowledge of the extent of the right conveyed; like the laws of conſcience, ought to be, and muſt be, compleatly obligatory on all men of unperverted principles.

The independence of the judiciary, under ſuch conſtruction, would be equally reſpected in Virginia where, ſir, you have conſidered it as a misfortune, that no barriers were provided in its defence, as it ought to be under the conſtitution of the United States, whoſe proviſions for the protection of judicial independence ſeem, in ſo many reſpects, ſo analogous to thoſe of your own draught. Whatever might injuriouſly affect that independence, if that independence be expedient and wiſe upon original principles, ought then to be forborne at all times and on all occaſions by every man, who conſents to diſcharge the functions of a public ſtation under a conſtitution, which, in giving to the judiciary its political exiſtence, defines and eſtabliſhes the meaſure of its independence by the uſe of terms of well-known import, in a manner equally authoritative with that, by which it defines and eſtabliſhes the extent of his own political rights and powers. The rights and powers of all, where ſpecific conſtitutional adjuſtments are wanting, ought to be

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cautiously reconciled by right reason: they must stand together in harmony, or a portion of the public institutions must perish. A gangrene once induced, the whole may be endangered.

"*Immedicabile vulnus, ense rescindendum.*"

It may become a wound on the body politic, of that dangerous kind, which nothing but the sword of revolution, by lopping one part from another, can stay from destroying the whole. The possibility of such events ought to teach the most daring caution, the most presumptuous hesitation.

These remarks, sir, are preparatory to the introduction of a further provision, proposed by you, for guarding the independence of the judiciary, which was rejected or omitted in the formation of the constitution of the United States. That provision was no other than a direct proposition to give to the judicial department an equal and joint participation with the executive, in reviling and controling, in political form, the proceedings of the legislature.

"The governor, two counsellors of state, and a judge from each of the superior courts of chancery, common law, and admiralty, shall be a council to revise all bills, which shall have passed both houses of assembly, in which council the governor, when present, shall preside. Every bill, before it becomes a law, shall be presented to this council, who shall have a right to advise its rejection, returning the bill with their advice and reasons in writing, to the house in which it originated, who shall proceed to reconsider the said bill. But if after such reconsideration, two thirds of the house shall be of opinion the bill should pass finally, they shall pass and send it, with the advice and written reasons of the said council of revision to the other house, wherein, if two thirds also shall be of opinion it should pass finally, it shall thereupon become law: otherwise it shall not.

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"The members of the ſaid council of reviſion ſhall be appointed from time to time by the board or court of which they reſpectively are. Two of the executive and two of the judiciary members, ſhall be requiſite to do buſineſs."

In this idea, of giving to the judiciary a participation in the power of reviſing and controling, in political form, the proceedings of the legiſlature, you ſeem not only to have perſevered, at the time of the promulgation of the conſtitution of the United States, but to have been diſpoſed to go ſtill further: to withdraw this power totally from the executive and to veſt it excluſively in the judiciary; or at leaſt, to veſt it concurrently in the latter. Leſt I ſhould be ſuppoſed to miſrepreſent, permit me, ſir, to repeat your own words.

"I like the negative given to the executive, with a third of either houſe; though I ſhould have liked it better, had the judiciary been appointed for that purpoſe, or inveſted with a ſimilar and ſeparate power."—(g)

Had ſuch propoſition in either mode been adopted, a negative, in a political form, would have been given to the judiciary of the United States over all the meaſures of Congreſs as well thoſe of political expediency and of a general nature, as thoſe which might touch the independency of that department, in any of its members, or the adminiſtration of juſtice. The adoption of ſuch a novelty in government deſerved to be well weighed before adventured upon. To blend political power with that which relates to the adminiſtration of juſtice, in the ſame hands, might poſſibly have had a tendency of the moſt injurious kind:

(g) See a letter from Mr. JEFFERSON, dated at Paris, December 20, 1787, publiſhed in a defence of his political character, in the gazette of his quondam clerk, FRENEAU, uſually called the National Gazette, of September 26, 1792.

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its effects might have been to ſubſtitute, by imperceptible gradations, the principles of the *lex talionis*, which too generally prevail in political affairs, in the place of the pure and peaceful principles of juſtice, where the latter ought ſimply and alone to govern. Such, or perhaps ſome ſtill more weighty conſideration, diſcountenanced the adoption of this innovation, though ſuggeſted in your draught: for, with the foregoing marks of attention to the ſuggeſtions of your draught, it is more than probable that it did not eſcape conſideration during the deliberations of the convention, which formed the conſtitution of the United States. The power of deciding upon the conſtitutionality of laws, in judicial form, (which it muſt have been foreſeen would be inevitably exerciſed by the judiciary, whenſoever queſtions founded on a colliſion between the laws and the conſtitution, ſhould be judicially brought before that body in the ordinary courſe of the adminiſtration of juſtice) was probably viewed moreover, as a guard equally effectual againſt legiſlative aberrations and as more congenial with the chaſte character which ought to diſtinguiſh the diſpenſers of juſtice, than the political negative, with which you propoſed to inveſt the judicial department. If the good ſenſe of the people of America has not wholly failed them; if we be not marked by infatuation for deſtruction; it is hoped this reſtraint in the judicial form, ſupported by the public ſentiment, may yet be found ſufficiently conſervative and ſalutary.

But, ſir, whether an adoption of a principle of this ſort be expedient or not, was it poſſible for you to have given a more clear proof of your conviction of the importance of the independence of the judiciary, than firſt, by the propoſition in your draught for forming a council of reviſion, equally out of the executive and judicial departments, for the purpoſe of control-

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ing the proceeding of the legiſlative department: and ſecondly, by not only perſevering in that idea, but, as it were, upon more mature deliberation, by propoſing to veſt this power of reviſion and control wholly and excluſively, or at leaſt concurrently, with the executive, in that very judiciary of the United States, whoſe independency is now thus wantonly aſſailed?

But one incident further remains to be noticed, for the full expoſure of your inconſiſtencies upon this ſubject. So punctiliouſly ſcrupulous were you, ſir, heretofore, in relation to any the ſmalleſt interference with the members of the judiciary, leſt the independence of that important department of government ſhould be, by any ways or means, wounded or impaired; that you appear to have conſidered it, as feeling power and forgetting right, even for the legiſlative department, (when inveſted, as in your draught, with the expreſs power of appointing the judges) to remove a judge, being once appointed, from one court, to another, though that other court ſhould be ſitting under the ſame roof, and though ſuch removal ſhould moreover be for the ſole purpoſe of a more convenient organization, and ſhould operate neither a diminution of ſalary, nor an increaſe of duty; unleſs indeed upon the expreſs conſent of ſuch judge, previouſly obtained for ſuch purpoſe. At the time when you prepared your draught (the fortunate means of expoſing your preſent inconſiſtencies!) the general court of Virginia was compoſed of five judges, and the court of chancery of three. You, ſir, having decided in your mind, that the number of four, was more proper than any other number of judges for the compoſition of a court, were deſirous of transferring one of the judges of the general court to the court of chancery, ſo that the former might be reduced, and the latter augmented, to your favourite number of four. Your proviſion for this important

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purpoſe has the honour of concluding your famous draught in the following words.

" One of the preſent judges of the general court, *he conſenting thereto*, ſhall by joint ballot of both houſes of aſſembly, at their firſt meeting, be tranſferred to the high court of chancery."

How different theſe ſcruples from your precipitance of the preſent day!

After theſe multiplied evidences of your former conviction of the importance of the independency of the judiciary, who, upon any reaſonable calculation of human inconſiſtencies, could have expected to ſee the day, when you, ſir, being ſolely inveſted with the power of reviſing and controling the proceedings of the legiſlature of the union, ſhould, without heſitation give your aſſent to an act, ſubſtantially and directly contravening every valuable principle heretofore aſſerted and maintained by you in defence of this eſſential portion of free polity? The man, who in the ordinary concerns of life, and on unimportant occaſions, preſumptuouſly advances opinions, and then without reaſon abandons them, exhibiting a character of ever-varying inconſiſtency, ſubjects himſelf, and juſtly, to the imputation of trifling, if not of contemptible verſatility. In what light then, ſir, can you expect your irreconcileable conduct, in this weighty concern, and on this important occaſion, to be viewed by the great body of your fellow-citizens, not only thoſe, who heretofore augured no good from your elevation; but thoſe alſo, who, being real friends to the conſtitution, have honeſtly conceived, they were adding to the ſtability of that conſtitution, and to the ſecurity of thoſe rights, for the perpetuation of which it was eſtabliſhed, whilſt favouring your aſcent to power?

You had heretofore aſſerted the importance of the independence of the judiciary in the moſt explicit and

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ſolemn manner: you had ſhewn the neceſſity of thoroughly eſtabliſhing that independence, if we wiſhed to preſerve to ourſelves, and to our poſterity the bleſſings of a free government: you had even ſpecified the means, which you deemed completely competent for that purpoſe. The great conventional council of your country, when engaged at a ſubſequent period in deviſing a ſyſtem of government, which might watch over and guard this great aſſemblage of communities and intereſts, had adopted, almoſt throughout, the ſpecific means which you had deviſed and recommended, in regard to the judicial department.—Yet, behold! you, if not fairly elected by the free and unbiaſſed voice of a majority of your fellow-citizens, being nevertheleſs *cnounced*, according to the rules of the conſtitution, Preſident of the United States; one of the firſt meaſures of your adminiſtration is aimed at the proſtration of the judicial power, in defiance of proviſions, recommended by yourſelf, and adopted as a part of that great conſtitutional charter under which you now act or ought to act. Surely conſiderations of the moſt powerful kind muſt have induced this public dereliction of former principles! Surely nothing ſhort of a full aſſurance of the proſtration of the people, as well as of their judiciary, could have authoriſed this preſumptuous change in conduct! What can thoſe conſiderations be? where ſhall we find the means of explaining a conduct ſo egregiouſly inconſiſtent?

If we recur to the debates of the legiſlature of the union; we there find the moſt reſpectable talents arrayed on the ſide of your former principles: though clear before to all who were not perverſely blind, they are rendered infinitely more ſo, by the united exertions of reaſon and of eloquence. Is there any thing in the arguments of thoſe who impugn thoſe principles, to juſtify your preſent courſe?

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"The judges both of the ſupreme and inferior courts ſhall hold their offices during good behaviour." They "ſhall be removed from office on impeachment for, and conviction of treaſon, bribery, or other high crimes and miſdemeanors," ſays the conſtitution.

Their offices are nevertheleſs declared, by theſe expounders, to be holden of you, ſir, as though you were already Lord Paramount of the United States; and if the judges cannot be removed from their offices during good behaviour, it is nevertheleſs contended, that their offices may be removed from them, by the ſovereign act of thoſe, to whoſe *guidance* you have been pleaſed to ſubmit the ſovereign functions of your high ſtation!

"The judges both of the ſupreme and inferior courts ſhall, at ſtated times, receive for their ſervices, a compenſation, which ſhall not be diminiſhed during their continuance in office," ſays the conſtitution.

Their offices may nevertheleſs be diſcontinued, (ſay theſe expounders) by removal from the holders, by an abolition of the courts, in which their ſervices were to be rendered, ſo as to deprive them of the power of rendering thoſe ſervices! Their compenſations moreover, though they cannot be diminiſhed, may be totally withheld, on account of this failure in ſervices, ſuppoſed to be thus rendered inevitable!

Such, ſir, is the ſum total of the proof, that the tenure during good behaviour, annexed by the conſtitution to the judicial office, ſignifies neither more nor leſs, than during the pleaſure of the legiſlature! Such is the ſum total of the proof, that a title to an undiminiſhed compenſation under that tenure may, at any moment be terminated by the pleaſure of the legiſlature! (*b*)

(*b*) See the debates of the majority, *paſſim*, in the late diſcuſ-

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Have the friends of the conſtitutional independence of the judges, during good behaviour, dared to heſitate at yielding "abſolute acquieſcence in (ſuch) deciſions of the majority"? They are not only chargable with violating "the vital principle of republics"; but, for this high miſdemeanor, are actually held up to public odium, as being favourers of monarchy, of ſinecure ſyſtems, of executive patronage, (*i*) nay, as deſigning to promote the eſtabliſhment of a judicial deſpotiſm of ſuch horrid kind, that even the ſtouteſt champions of liberty and republicaniſm feel themſelves juſtified in looking by anticipation, to the government of *one lenient tyrant* (*j*) a ſtate, (ſtrange to tell!) which ſeems to be viewed as infinitely preferable to that, in which liberty and juſtice might be compelled to go hand in hand. So inconſiſtent, in modern ideas, are liberty and juſtice! So incompatible, the new-found republicaniſm of the preſent period, with the equal protection of the rights of all through an independent judiciary!

Is this the manner, ſir, in which you heretofore contemplated to render the members of the judiciary independent of the legiſlature, during good behaviour, for both their continuance, and ſubſiſtence in office? With ſuch evidences before us of determined hoſtility to an independent and upright judiciary, is it poſſible, ſir, that any man in his ſober ſenſes can repoſe confidence in profeſſions of "equal and exact juſtice to all men, of whatever ſtate or perſuaſion, religious or political?"

ſion upon this ſubject in the two branches of the legiſlature of the union.

(*i*) See particularly the ſpeech of the honourable Mr. GILES, of Virginia, on the 18th of February, 1802, in the Waſhington Federaliſt of March 3d and 4th, 1802.

(*j*) See the ſpeech of the honourable Mr. THOMPSON, alſo of Virginia, on the 16th of February, 1802, particularly near the cloſe, in the Waſhington Federaliſt, of February 27, 1802.

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Is this the liberality, ſir, by which you and your confidential adherents now propoſe to "reſtore to ſocial intercourſe that harmony and affection, without which liberty and even life itſelf are but dreary things"?

Is this the ſpirit, by which the champions of liberty and republicaniſm are actuated? A Lord Paramount, of whom the judges of the United States are to be reputed to hold their offices! The government of one lenient tyrant!

Is not this, ſir, ſufficiently intelligible? If in the reaſonings of thoſe, who impugn your former principles, a juſtification of your preſent courſe cannot be found, does it follow, that in the point, to which they look, the means of explanation may not be diſcovered?

Accept, ſir, for the preſent, my homage—of all due conſideration and reſpect.

Your Fellow-Citizen,

TACITUS.

March 27, 1802.

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APPENDIX

TO THE

LETTERS OF TACITUS.

NUMBER I.

"*LORD, now letteſt thou thy ſervant depart in peace, for mine eyes have ſeen thy ſalvation,*"—was the pious ejaculation of a man who beheld a flood of happineſs ruſhing in upon mankind. If ever there was a time that would licenſe the reiteration of the exclamation, that time is now arrived; for *the man who is the ſource of all the misfortunes of our country* is this day reduced to a level with his fellow-citizens, and is *no longer poſſeſſed of power to multiply evils upon the United States.* If ever there was *a period for rejoicing, this is the moment.* Every heart in uniſon with the freedom and happineſs of the people ought to beat high with exultation, that *the name of WASHINGTON from this day ceaſes to give currency to POLITICAL INIQUITY, and to legalize CORRUPTION!* A new æra is now opening upon us —an æra that promiſes much to the people; for public meaſures muſt now ſtand upon their own merits, and NEFARIOUS PROJECTS CAN NO LONGER BE SUPPORTED BY A NAME. When a retroſpect is taken of the Waſhington adminiſtration, for eight years, it is a ſubject of the greateſt aſtoniſhment, that a ſingle individual could have *cankered the principles of republicaniſm* in an enlightened people, and ſhould have carried his *deſigns againſt the public liberty* ſo far as to have put in JEOPARDY ITS VERY EXISTENCE: SUCH however are THE FACTS, and with theſe ſtaring us in the face, this day ought to be a *jubilee* in the United States."

Extract from the Aurora March 4, 1797.

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NUMBER II.

"WHEREAS by an act, intituled "an act for vesting in GEORGE WASHINGTON, Esquire, a certain interest in the companies established for opening and extending the navigation of James and Potowmack Rivers," and reciting, "that whereas it is the desire of the representatives of this commonwealth to embrace every suitable occasion of testifying their sense of the unexampled merits of GEORGE WASHINGTON, Esq towards his country; and it is their wish in particular that those great works for its improvement; which, both as springing from the liberty, which he has been so instrumental in establishing, and as encouraged by his patronage; will be durable monuments of his glory, may be made monuments also of the gratitude of his country." It is enacted, "that the treasurer be directed, in addition to the subscriptions he is already authorised to make to the respective undertakings for opening the navigations of Potowmack and James's rivers, to subscribe to the amount of fifty shares to the former, and one hundred shares to the latter, to be paid in like manner with the subscriptions above mentioned: and that the shares so subscribed be, and the same are hereby vested in GEORGE WASHINGTON, Esq. his heirs and assigns forever, in as effectual a manner, as if the subscriptions had been made by himself or by his attorney."—And whereas the said GEORGE WASHINGTON, Esq. in his letter addressed to the Governor, which has been laid before the general assembly, hath expressed his sentiments thereupon, in the words following, to wit:—"Your Excellency having been pleased to transmit me a copy of the act appropriating to my benefit certain shares in the companies for opening the navigation of James and Potowmack rivers, I take the liberty of returning to the general assembly, through your hands, the profound and grateful acknowledgments, inspired by so signal a mark of their beneficent intentions towards me. I beg you, sir, to assure them, that I am filled on this occasion with every sentiment which can flow from a heart warm with love for my country, sensible to every token of its approbation and affection, and solicitous to testify, in every instance, a respectful submission to its wishes. With these sentiments in my bosom, I need not dwell on the anxiety I feel, in being obliged, in this instance, to decline a favour, which is rendered no less flattering by the manner in which it is conveyed, than it is affectionate in itself. In explaining this obligation, I pass over a comparison in my endeavours in the public service with the many honourable testimonies of approbation, which have already so far overrated and overpaid them; reciting one consideration only,

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which ſuperſedes the neceſſity of recurring to every other. When I was firſt called to the ſtation, with which I was honoured during the late conflict for our liberties, to the diffidence, which I had ſo many reaſons to feel in accepting it, I thought it my duty to join a firm reſolution to ſhut my hand againſt every pecuniary recompence; to this reſolution I have invariably adhered, from this reſolution (if I had the inclination) I do not conſider myſelf at liberty to depart. Whilſt I repeat therefore my fervent acknowledgments to the legiſlature for their very kind ſentiments and intentions in my favour, and at the ſame time beg them to be perſuaded, that a remembrance of this ſingular proof of their goodneſs towards me, will never ceaſe to cheriſh returns of the warmeſt affection and gratitude, I muſt pray that their act, ſo far as it has for its object my perſonal emolument, may not have its effect. But if it ſhould pleaſe the general aſſembly to permit me to turn the deſtination of the fund veſted in me, from my private emolument to objects of a public nature, it will be my ſtudy in ſelecting theſe, to prove the ſincerity of my gratitude for the honour confered on me, by preferring ſuch as may appear moſt ſubſervient to the enlightened and patriotic views of the legiſlature."—And whereas the deſire of the general aſſembly to mark, by the proviſion above mentioned, their ſenſe of the illuſtriousmerits of the ſaid GEORGE WASHINGTON, Eſq. at the ſame time that it is ſtrengthened by this freſh and endearing proof of his title to the gratitude of his country, is ſuperſeded by their reſpect for his diſintereſted wiſhes and patriotic views."

"Be it enacted that the ſaid recited act, ſo far as it veſts in GEORGE WASHINGTON, Eſq. and his heirs, the ſhares therein directed to be ſubſcribed in his name, ſhall be, and the ſame is hereby repealed."

"And be it further enacted, that the ſaid ſhares, with the tolls and profits hereafter accruing therefrom, ſhall ſtand appropriated to ſuch objects of a public nature, in ſuch manner, and under ſuch diſtributions, as the ſaid GEORGE WASHINGTON, Eſq. by deed during his life, or by his laſt will and teſtament, ſhall direct and appoint."

Extract from the acts of the General Aſſembly of Virginia, paſſed at their ſeſſion of October, 1785. *Chap.* 11.

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APPENDIX.

NUMBER III.

GENET's LETTER,

Extracted from the documents accompanying the President's Message to Congress, delivered December 5, 1793.

[TRANSLATION.]

New York, Sept. 18, 1793.
2d year of the French Republic, one and indivisible.

Citizen GENET, *Minister Plenipotentiary, of the French Republic with the United States, to Mr.* JEFFERSON, *Secretary of State of the United States.*

SIR,

PERSUADED that the sovereignty of the United States resides essentially in the people, and its representation in the congress: persuaded that the executive power is the only one which has been confided to the President of the United States; persuaded that this magistrate has not the right to decide questions, the discussion of which, the constitution reserves particularly to the congress; persuaded that he has not the power to bend existing treaties to circumstances, and to change their sense; persuaded that the league formed by all the tyrants, to annihilate republican principles, founded on the rights of man, will be the object of the most serious deliberations of Congress, I had deferred, in the sole view of maintaining good harmony between the free people of America and France, communicating to my government, before the epoch at which the representatives of the people were to assemble, the original correspondence which has taken place, in writing, between you and myself, on the political rights of France in particular; on the interests of general liberty; and on the acts, proclamations and decisions of the President of the United States, relative to objects which require, from their nature, the sanction of the legislative body. However, informed that the gentlemen who have been painted to me so often as aristocrats, partisans of monarchy, partisans of England, of her constitution, and consequently enemies of the principles which all good Frenchmen have embraced with a religious enthusiasm; alarmed at the popularity which was reflected on the minister of France by the affection of the American people for the French Republic, and for the glorious cause which it defends; equally alarmed at my unshaken and incorruptible attachment to the severe maxims of democracy, were labouring to ruin me in my country, after having re-united all the efforts to caluminate me in the view of their fellow citizens, I was going to begin to collect these afflicting materials, and I was taking

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measures to transmit them to France with my reports, when the denunciation which these same men have excited the President to exhibit against me, through Mr. MORRIS, came to my hands. Strong in the principles which have directed my conduct, sheltered from every well-founded reproach, I expected, nevertheless, to have found in it some serious allegations; but what has been my astonishment on finding, that the American people were more outraged in it than myself, that it was supposed, that I exercised over them a *sovereign* influence, that it was pretended that I was making them take a part in the war of liberty, for the defence of their brethern, of their allies, against the intention of their government; that judgments favourable to our interests rendered in the midst of the acclamations of the citizens of Philadelphia, by juries and by independent tribunals, have not been the expressions of a severe justice; in short, that I was a power within another power.

Such strange accusations, proving only that the American people loves and supports our principles and our cause, in spite of its numerous enemies; and that the power which they do me the honour to attribute to me, is only that of gratitude struggling against ingratitude, of truth combatting error. I will send no other justification of my conduct. I will join only in support of the opinions which I meant to profess, some writings which have been published here, such as those of *Veritas*, *Helvidius* &c. As to the personal outrages, as to the doubts which you insinuate on my devotion to the union of the people, I have reason to believe they will not make a great impression, when the answers shall be recurred to, which I made to the numerous addresses which your fellow-citizens deigned to present me: when it shall be recollected, that placed at the age of twelve years in the bureau [office] of foreign affairs, it was I who had the advantage of contributing to penetrate the French with the spirit of 1776 and 1777 by translating into our tongue, under the direction of my father, then head of the bureau, the greater part of your laws and of the writings of your politicians; that since that epoch, always faithful to the cause of liberty, I have rendered to the Americans, in the different employments I have had, all the services which depended on me; and that, in fine, charged to represent the French people, with the first people who have proclaimed the rights of man, knowing how far our ancient government had put liberticide shackles on the commerce and on the intimacy of our two nations, I have neglected nothing to obtain, on the one hand, the liberal basis on which the new bands which the French people desire to contract with the United States, were to be negociated, in order that on the other, the federal government might be sensible how urgent it was to occupy

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themſelves promptly on the concluſion of this true family compact, which was forever to unite the political and commercial intereſts of two people equally objects of the hatred of all tyrants: beſides, ſir, whatever may be the reſult of the atchievement of which you have rendered yourſelf the generous inſtrument, *after having made me believe, that you were my friend, after having initiated me into myſteries which* HAVE INFLAMED MY HATRED *againſt all thoſe who aſpire to an abſolute power*, there is an act of juſtice, which the American people, which the French people, which all free people are intereſted to reclaim; that is, that there be made a particular inquiry, in the next Congreſs, of the MOTIVE * on which the head of the executive power of the United States has taken on himſelf to demand the recal of a public miniſter, whom the SOVEREIGN PEOPLE *of the United States* HAD RECEIVED *fraternally and* RECOGNIZED *before the diplomatic* forms had been fulfilled with reſpect to him, at Philadelphia.

It is in the name of the French people, that I am ſent to their brethren—to free and ſovereign men: it is then for the repreſentatives of the American people, and not for a ſingle man, to exhibit againſt me an act of accuſation, if I have merited it. A deſpot may ſingly permit himſelf to demand from another deſpot the recal of his repreſentative, and to order his expulſion in caſe of refuſal. This is what the Empreſs of Ruſſia did with reſpect to myſelf, from Louis XVI. But in a free ſtate it cannot be ſo, unleſs order be entirely ſubverted; unleſs the people, in a moment of blindneſs, chuſes to rivet their fetters in making to a ſingle individual, the abandonment of their moſt precious rights. I pray you then, ſir, to place under the eyes of the Preſident of the United States, the demand which I make in the name of equity, to lay before Congreſs for their diſcuſſion, at the epoch when they ſhall be aſſembled by the law, if the great events which occupy the univerſe, do not appear yet ſufficient to haſten their convocation—1ſt. All the queſtions relative to the political rights of France, and the United States. 2d. The different caſes reſulting from our ſtate of war with the powers of whoſe acts of aggreſſion I have informed you. 3d. The heads of accuſation which the miniſter of the United States with the French republic, is charged to exhibit againſt me, and againſt the conſuls whoſe character is compromitted and outraged in the moſt ſcandalous manner, for having obeyed ſuperior orders, which it was neither in their power nor in mine to revoke. In this ex-

* Good republicans of that day had not ſuch an abhorrence to an inquiry into *motives* of the executive as they have manifeſted on a more recent occaſion.

EDITOR.

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pectation, sir, I do not consider the dignity of the French nation as compromitted by the extraordinary position in which I find myself, as well as the consuls, and I have to complain only of the forms you have employed.

The executive council of the French republic had also complaints of a very different nature from those alleged against me, to exhibit against Mr. Morris, your ambassador at Paris: but penetrated with a just sentiment of respect for the sovereignty of the American people, it recommended to me only to make confidential observations to you on the necessity of recalling this minister plenipotentiary, accused by the public voice of facts established, but not by the representatives of the people after a regular inquiry, of having favoured as much as he could the counter-revolutionary projects of Louis XVI, of communicating to him memoirs, in which he advised him not to accept the constitution; of having had no connection but with suspected persons; of having affected the greatest contempt for all those who served faithfully the cause of the people; of having been the channel of the counsels which conducted La Fayette into the prisons of Prussia; of having abused the respect of the French people for the envoy of the American people to facilitate more surely the correspondence and the conspiracies of all its enemies; of having shewn nothing but ill humour in his relations with the ministers of the French republic; of having affected, in writing to them, to employ, in speaking of the executive of the United States, only the words "*In the name of my court,*" so shocking to republican ears; of having demanded a passport the 10th August 1792, to go into England with the ambassador of George III; and of having said publicly, with a confidence which the present event justifies, that if the embassy of the republic should be received at Philadelphia, its existence and that of the republican consuls in America, would not be of long duration there.

I have already mentioned to you, sir, some of these imputations; but, as I have already told you, out of respect for the sovereignty of the United States, I thought I should leave to their wisdom the care of taking measures, the most suitable to reconcile their dignity with what their prudence might require.

Not doubting, sir, that the justice which I require will be done me, as well as my co operators, I ought to inform you, that I am about to have printed all my correspondence with you, all my instructions, and all those of the consuls, in order that the American people, whose esteem is dearer to me than life, may judge if I have been worthy or not, of the fraternal reception which it deigned to give me; if in all my official papers I have not expressed my respect for that virtuous nation and my confidence in the purity of their sentiments; If I have insisted on a

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ſingle principle, which has not been ſupported ſince, by deciſions of the juries or tribunals of the country; if in acting and expreſſing myſelf with the frankneſs and the energy of a republican I have attacked the conſtitution; if I have refuſed reſpect to a ſingle law: in fine, if, in reclaiming with all the firmneſs which was preſcribed to me, the faithful execution of our treaties, I have not endeavoured to encourage the federal government to employ the only means, worthy of a great people, to preſerve peace and to enjoy the advantages of neutrality—an uſeful object, not to be obtained by timid and uncertain meaſures, *by premature proclamations*, which ſeem extorted by fear, by a partial impartiality which ſours your friends without ſatisfying our enemies; but by an attitude firm and pronounced, which appriſes all the powers that the very legitimate deſire of enjoying the ſweets of peace, has not made you forget what is due to juſtice, to gratitude, and that without ceaſing to be neutral, you may fulfil public engagements, contracted with your friends, in a moment when you were yourſelves in danger.

I will anſwer more in detail, ſir, at a proper time, your violent diatribe; but it contains one fact on which I muſt now give you explanations. *You are* MADE to reproach me with having indiſcreetly given to my official proceedings, a tone of colour, which has induced a belief, that they did not know, in France, either my character or my manners. I will tell you the reaſon, ſir; it is that a pure and warm blood runs with rapidity in my veins; that I love paſſionately my country; that I adore the cauſe of liberty; that I am always ready to ſacrifice my life to it; that to me, it appears inconceivable, that all the enemies of tyranny, that all virtuous men, do not march with us to the combat; and that when I find an injuſtice is done to my fellow-citizens, that their intereſts are not eſpouſed with the zeal which they merit, no conſiderations in the world would hinder either my pen or my tongue from tracing, from expreſſing my pain. I will tell you then, without ceremony, that I have been extremely wounded, ſir, 1ſt that the Preſident of the United States was in a hurry, before knowing what I had to tranſmit to him, on the part of the French republic, to proclaim ſentiments, on which decency and friendſhip ſhould at leaſt have drawn a veil. 2d. That he did not ſpeak to me at my firſt audience, but of the friendſhip of the United States towards France, without ſaying a word to me, without announcing a ſingle ſentiment on our revolution; while all the towns from Charleston to Philadelphia had made the air reſound with their moſt ardent wiſhes for the French republic. 3d That he had received and admitted to a private audience, before my arrival, NOAILLES and TALON, known agents of the French counter-revolutioniſts, who have ſince had

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intimate relations with two members of the federal government. 4th. That this first magistrate of a free people, decorated his parlour with certain medallions of CAPET and his family, which served at Paris as signals of rallying. 5th. That the first complaints which he made to my predecessor on the armaments and prizes which took place at Charleston on my arrival, were in fact but a paraphrase of the notes of the English minister. 6th. That the Secretary of War, to whom I communicated the wish of our governments of the Windward Islands, to receive promptly some fire arms and some cannon which might put into a state of defence possessions guarantied by the United States, had the FRONT to answer ME with ironical carelessness that the principles established by the President did not permit him to lend us so much as a pistol. 7th. That the Secretary of the Treasury, with whom I had a conversation on the proposition which I had made to convert almost the whole American debt, by means of an operation of finance authorized by law, into flour, rice, grain, salted provisions and other objects of which France had the most pressing need; added to the refusal which he had already made officially of favouring this arrangement, the positive declaration, that even if it were practicable, the United States could not consent to it, because England would not fail to consider this extraordinary reimbursement furnished to a nation with which she is at war, as an act of hostility. 8th. That by instructions from the President of the United States, the American citizens who ranged themselves under the banners of France, have been prosecuted and arrested, *a* CRIME *against liberty unheard of*, of which a virtuous and popular jury avenged with eclat the defenders of the best of causes. 9th. That incompetent tribunals were suffered to take cognizance of facts relative to prizes which treaties interdict them expressly from doing; that on the acknowledgment of their incompetence, this property, acquired by the right of war, was taken from us, that it was thought ill of, that our consuls protested against these arbitrary acts, and that as a reward for this devotion to his duty, the one at Boston was imprisoned as a malefactor. 10th. That the President of the United States took on himself to give to our treaties arbitrary interpretations, absolutely contrary to their true sense, and that by a series of decisions which they would have us receive as laws, he left no other indemnification to France, for the blood she spilt, for the treasure she dissipated in fighting for the independence of the United States, but the illusory advantage of bringing into their ports the prizes made on their enemies, without being able to sell them. 11th That no answer is yet given to the notification of the decree of the national convention for opening

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our parts in the two worlds to the American citizens, and granting the same favour to them as to the French citizens; advantages which will cease, if there be a continuance to treat us with the same injustice. 12th. That he has deferred, *in spite of* MY respectful insinuations, to convoke Congress *immediately*, in order to take the true sentiments of the people, to fix the political system of the United States, and to decide whether they will break, suspend or tighten their bands with France; an honest measure which would have avoided to the federal government much contradiction and subterfuge, to me much pain and disgust, to the local governments embarrasments so much the greater, as they found themselves placed between treaties, which are laws and decisions of the federal government, which are not: in fine, to the tribunals duties so much the more painful to fulfil, as they have been often under the necessity of giving judgment contrary to the intentions of the government.

It results from all these facts, sir, that I could not but be profoundly affected with the conduct of the federal government towards my country, a conduct so contrary to what the will of their sovereign, to what the proceedings of mine gave me reason to expect: and that if I have shewn firmness, it was because it was indispensable that my resistance should be equal to the oppression, to the injustice, which were in opposition to the interests confided to me; it is, that it was not in my character to *speak, as many people do*, in one way and *act* in another; TO HAVE AN OFFICIAL LANGUAGE AND A LANGUAGE CONFIDENTIAL. I have done strictly my duty; I have defended my ground, and I will suffer no precedent against any of the rights of the French people while there remains to me a breath of life; while our two republics shall not have changed the basis of their political and commercial relations, while they shall not have persuaded the American people that it is more advantageous for them to have become insensibly the slaves of England, the passive tributaries of their commerce, the sport of their politics, than to remain the allies of the *only* power who may be interested to *defend their sovereignty and their independence*; to open to them their colonies, and to their riches those markets which double their value. If it be to this that tend all the machinations set in motion against the French Republicans and against their friends in the United States; if it be to attain this more conveniently, that they wish to have here, instead of a democratic ambassador, a minister of the ancient regimen, very complaisant, very mild, well disposed to pay his court to people in place, to conform himself blindly to whatsoever may flatter their views and their projects, and to prefer above all to the modest and sure society of good farmers

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plain citizens, honeſt artizans, that of diſtinguiſhed perſonages, who ſpeculate ſo patriotically on the public funds, on the lands and paper of the ſtate, I know not if the French Republic can find for you at this day, ſuch a man in their boſom: but in all events, ſir, I can aſſure you, that I will preſs very ſtrongly, its government to *ſacrifice me without heſitation*, if this injuſtice offers the leaſt utility.

Accept my reſpects,

GENET.

NUMBER IV.

TRANSLATION

Of Mr FAUCHET's Political Diſpatch No. 10. extracted from "A Vindication of Mr. RANDOLPH's Reſignation," page 41 to 48.

LEGATION OF PHILADELPHIA.

FOREIGN RELATIONS.

Private Correſpondence of the Miniſter on Politicks, No. 10.

Philadelphia, the 10th Brumaire,
3d year of the French Republic, one and indiviſible.
(October 31ſt, 1794.)

CITIZEN,

1. THE meaſures which prudence preſcribes to me to take, with reſpect to my colleagues, have ſtill preſided in the digeſting of the diſpatches ſigned by them, which treat of the inſurrection of the weſtern countries, and the repreſſive means adopted by the government. I have allowed them to be confined to the giving of a faithful but naked recital of events; the reflections therein contained ſcarcely exceed the concluſions eaſily deducible from the character aſſumed by the public prints. I have reſerved myſelf to give you, as far as I am able, a key to the facts detailed in our reports. When it comes in queſtion to explain, either by conjectures or by certain data, the ſecret views of a foreign government, it would be imprudent to run the riſk of indiſcretions, and to give oneſelf up to men whoſe known partiality for that government, and ſimilitude of paſſions and intereſts with its chiefs, might lead to confidences, the iſſue of which are incalculable. Beſides, the precious confeſſions of Mr. RANDOLPH alone throw a ſatisfactory light upon every thing that

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comes to paſs. Theſe I have not yet communicated to my colleagues. The motives already mentioned lead to this reſerve, and ſtill leſs permit me to open myſelf to them at the preſent moment. I ſhall then endeavour, citizen, to give you a clue to all the meaſures of which the common diſpatches give you an account, and to diſcover the true cauſes of the exploſion which it is obſtinately reſolved to repreſs with great means, although the ſtate of things has no longer any thing alarming.

2. To confine the preſent criſis to the ſimple queſtion of the exciſe is to reduce it far below its true ſcale; it is indubitably connected with a general exploſion for ſome time prepared in the public mind, but which this local and precipitate eruption will cauſe to miſcarry, or at leaſt check for a long time;—in order to ſee the real cauſe, in order to calculate the effect, and the conſequences, we muſt aſcend to the origin of the parties exiſting in the ſtate, and retrace their progreſs.

3. The preſent ſyſtem of government has created malcontents. This is the lot of all new things. My predeceſſors have given information in detail upon the parts of the ſyſtem which have particularly awakened clamours and produced enemies to the whole of it. The primitive diviſions of opinion, as to the political form of the ſtate, and the limits of the ſovereignty of the whole over each ſtate individually ſovereign, had created the *federaliſts* and the *anti federaliſts*. From the whimſical contraſt between the name and the real opinion of the parties, a contraſt hitherto little underſtood in Europe, the former aimed and ſtill aim, with all their power, to annihilate federaliſm, whilſt the latter have always wiſhed to preſerve it. This contraſt was created by the *conſolidators* or the conſtitutionaliſts [*conſt tuans*] who, being firſt in giving the denominations (a matter ſo important in a revolution) took for themſelves that which was moſt popular, though in reality it contradicted their ideas, and gave to their rivals one which would draw on them the attention of the people, notwithſtanding they really wiſhed to preſerve a ſyſtem whoſe prejudices ſhould *cheriſh at leaſt the memory and the name.*

4. Moreover, theſe firſt diviſions, of the nature of thoſe to be deſtroyed by time, in proportion as the nation ſhould have advanced in the experiment of a form of government, which rendered it flouriſhing, might now have completely diſappeared, if the ſyſtem of finances which had its birth in the cradle of the conſtitution had not renewed their vigour under various forms. The mode of organizing the national credit, the conſolidating and funding of the public debt, the introduction in the political œconomy of the uſage of ſtates which prolong their exiſtence,

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or ward off their fall only by expedients, imperceptibly created a financiering claſs who threaten to become the ariſtocratical order of the ſtate. Several citizens, and, among others, thoſe who had aided in eſtabliſhing independence with their purſes or their arms, conceived themſelves aggrieved by theſe fiſcal engagements. Hence an oppoſition which declares itſelf between the farming or agricultural intereſt, and that of the fiscal; federaliſm and anti federaliſm, which are founded on thoſe new denominations in proportion as the treaſury uſurps a preponderance in the government and legiſlation: hence, in fine, the ſtate divided into partiſans and enemies of the treaſurer and of his theories. In this new claſſification of parties, the nature of things gave popularity to the latter, an innate inſtinct, if I may uſe the expreſſion, cauſed the ears of the people to revolt at the names alone of *treaſurer* and *ſtock-jobber:* but the oppoſite party, in conſequence of its ability, obſtinately perſiſted in leaving to its adverſaries the ſuſpicious name of *anti federaliſt*, whilſt in reality they were friends of the conſtitution, and enemies only of the excreſcences which financiering theories threated to attach to it.

5 It is uſeleſs to ſtop longer to prove that the monarchical ſyſtem was interwoven with thoſe novelties of finances, and that the friends of the latter favoured the attempts which were made in order to bring the conſtitution to the former by inſenſible gradations. The writings of influential men of this party prove it; their real opinions too avow it, and the journals of the ſenate are the depoſitory of the firſt attempts.

6 Let us, therefore, free ourſelves from the intermediate ſpaces in which the progreſs of the ſyſtem is marked, ſince they can add nothing to the proof of its exiſtence; let us paſs by its ſympathy with our regenerating movements, while running in monarchical paths; let us arrive at the ſituation in which our republican revolution has placed things and parties.

7. The anti federaliſts diſembarraſs themſelves of an inſignificant denomination, and take that of PATRIOTS and of REPUBLICANS. Their adverſaries become *ariſtocrats*, notwithſtanding their efforts to preſerve the advantageous illuſion of ancient names, opinions claſh and preſs each other; the ariſtocratic attempts which formerly had appeared ſo inſignificant are recollected; the treaſurer, who is looked upon as their firſt ſource, is attacked; his operations and plans are denounced to the public opinion; nay, in the ſeſſions of 1792 and 1793, a ſolemn inquiry into his adminiſtration was obtained. This firſt victory was to produce another, and it was hoped that *guilty or innocent*, the treaſurer would retire, no leſs by neceſſity in the one caſe, than from ſelf-love in the other. He, emboldened by the

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triumph which he obtained in the uſeleſs enquiry of his enemies, of which both objects proved equally abortive, ſeduced beſides by the momentary reverſe of republicaniſm in Europe, removes the maſk and announces the approaching triumph of his principles.

8. In the mean time, the popular ſocieties are formed; political ideas concenter themſelves; the *patriotic* party unite and more cloſely connect themſelves; they gain a formidable majority in the legiſlature; the *abaſement of commerce*, the *ſlavery of navigation*, and the audacity of England, ſtrengthen it. *A concert of declarations and cenſures againſt the government ariſes;* at which the latter is even itſelf aſtoniſhed.

9. Such was the ſituation of things towards the cloſe of the laſt and at the beginning of the preſent year. Let us paſs over the diſcontents which were moſt generally expreſſed in theſe critical moments. They have been ſent to you at different periods, and in detail. In every quarter are arraigned the imbecillity of the government towards Great Britain, the defenceleſs ſtate of the country againſt poſſible invaſions, the coldneſs towards the French Republic; the ſyſtem of finance is attacked, which threatens eterniſing the debt under pretext of making it the guaranty of public happineſs; the complication of that ſyſtem which withholds from general inſpection all its operations—the alarming power of the influence it procures to *a man whoſe principles are regarded as dangerous*—the preponderance which that man acquires from day to day in public meaſures, and in a word, the immoral and impolitic modes of taxation, which he at firſt preſents as expedients, and afterwards raiſes to permanency.

10. In touching this laſt point WE *attain the principal complaint* of the Weſtern people, and the *oſtenſible* motives of their movements. Republicans by principle, independent by character and ſituation, they could not but accede with enthuſiam to the *criminations which* WE *have ſketched*. But the *exciſe* above all affects them. Their lands are fertile, watered with the fineſt rivers in the world: but the abundant fruits of their labour run the riſk of periſhing for the want of means of exchanging them as thoſe more happy cultivators do for objects which deſire indicates to all men who have known only the enjoyments which Europe procures them. They therefore convert the exceſs of their produce into liquors imperfectly fabricated, which badly ſupply the place of thoſe they might procure by exchange. The *exciſe* is created and ſtrikes at this conſoling transformation; their complaints are anſwered by the only pretext, that they are otherwiſe inacceſſible to every other ſpecies of impoſt. But why, in contempt of treaties, are they left to bear the yoke of the feeble

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Spaniard, as to the Miſſiſſippi, for upwards of twelve years? Since when has an agricultural people ſubmitted to the unjuſt capricious law of a people explorers of the precious metals? Might we not ſuppoſe that Madrid and Philadelphia mutually aſſiſted in prolonging the ſlavery of the river; that the proprietors of a barren coaſt are afraid, leſt the Miſſiſſippi, once opened and its numerous branches brought into activity, their fields might become deſarts, and, in a word, that commerce dreads having rivals in thoſe interior parts as ſoon as their inhabitants ſhall ceaſe to be ſubjects? This laſt ſuppoſition is but too well founded; an influential member of the ſenate, Mr. IZARD, one day in converſation undiſguiſedly announced it to me.

11. I ſhall be more brief in my obſervations on the murmurs excited by the ſyſtem for the ſale of lands. It is conceived to be unjuſt that theſe vaſt and fertile regions ſhould be ſold by provinces to capitaliſts who thus enrich themſelves, and retail with immenſe profits, to the huſbandmen, poſſeſſions which they have never ſeen. If there were not a latent deſign to arreſt the rapid ſettlement of thoſe lands and to prolong their infant ſtate, why not open in the Weſt land offices, where every body without diſtinction, ſhould be admitted to purchaſe by a ſmall or large quantity? Why reſerve to ſell or diſtribute to favourites, to a clan of flatterers, of courtiers that which belongs to the ſtate, and which ſhould be ſold to the greateſt poſſible profit of all its members.

12. Such therefore were the parts of the public grievance, upon which the weſtern people moſt inſiſted. Now as the common diſpatches inform you, theſe complaints were ſyſtematizing by the *converſations of influential men* who retired into thoſe wild countries, and who from principle, or by a ſeries of particular heart-burnings, animated diſcontents already too near to effervescence. At laſt the local exploſion is effected. The weſtern people calculated on being ſupported by ſome diſtinguiſhed characters in the eaſt, and even imagined they had in the boſom of the government ſome abettors, who might ſhare in their grievances or their principles.

13. From what I have detailed above, thoſe men might indeed be ſuppoſed numerous. The ſeſſions of 1793 and 1794 had given importance to the republican party, and ſolidity to its accuſations. The propoſitions of Mr. MADISON, or his project of a navigation act, of which Mr. JEFFERSON was originally the author, ſapped the Britiſh intereſt, now an integral part of the financiering ſyſtem. Mr. TAYLOR, a republican member of the ſenate, publiſhed, towards the end of the ſeſſion, three pamphlets, in which this laſt is explored to its origin, and de-

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veloped in its courſe and conſequences with force and method. In the laſt he aſſerts that the decrepit ſtate of affairs reſulting from that ſyſtem, could not but preſage, under a riſing government, either a revolution or a civil war.

14. The firſt was preparing: the government which had foreſeen it, reproduced, under various forms, the demand of a diſpoſable [*diſponſible*] force which might put it in a reſpectable ſtate of defence. Defeated in this meaſure, who can aver that it may not have haſtened the local irruption, in order to make an advantageous diverſion, and to lay the more general ſtorm which it ſaw gathering? Am I not authorized in forming this conjecture from the converſation which the ſecretary of ſtate had with me and LE BLANC, alone, an account of which you have in my diſpatch No. 3? But how may we expect that this new plan will be executed? By exaſperating and ſevere meaſures, authoriſed by a law which was not ſolicited till the cloſe of the ſeſſion. This law gave to the one already exiſting for collecting the *exciſe* a coercive force which hitherto it had not poſſeſſed, and a demand of which was not before ventured to be made. By means of this new law* all the refractory citizens to the old one were cauſed to be purſued with a ſudden rigour; a great number of writs were iſſued; doubtleſs the natural conſequences from a conduct ſo deciſive and ſo harſh were expected; and before theſe were manifeſted, the means of repreſſion had been prepared; this was undoubtedly what Mr. RANDOLPH meant in telling me, *that under pretext of giving energy to the government it was intended to introduce abſolute power, and to miſlead the preſident in paths which would conduct him to unpopularity.*

15. Whether the exploſion has been provoked by the government; or owes its birth to accident, it is certain that a commotion of ſome hundreds of men, who have not ſince been found in arms, and the very pacific union of the counties in Braddock's field, an union which has not been revived, were not ſymptoms which could juſtify the raiſing of ſo great a force as 15 000 men. Beſides the principles uttered in the declarations hitherto made public, rather announced ardent minds to be calmed than anarchiſts to be ſubdued. But in order to obtain ſomething on the public opinion prepoſſeſſed againſt the demands contemplated to be made, it was neceſſary to magnify the danger, to diſfigure the views of thoſe people, to attribute to them the deſign of uniting themſelves with England, to alarm the citizens for the fate of the conſtitution, whilſt, in reality, the revolution threatened

* This law was mentioned in the comment upon the laws of the laſt ſeſſion incloſed in No. 9 of the correſpondence of the miniſter.

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only the ministers. This step succeeded; an army is raised; this military part of the suppression is doubtless Mr. HAMILTON's, the pacific part and the sending of commissioners are due to the influence of Mr. RANDOLPH over the mind of the President, whom I delight always to believe and whom I do believe truly virtuous and the friend of his fellow citizens and principles.

16. In the mean time, although there was a certainty of having an army, yet it was necessary to assure themselves of co-operators among the men whose patriotic reputation might influence their party, and whose lukewarmness or want of energy in the existing conjunctures might compromit the success of the plans. Of all the governors whose duty it was to appear at the head of the requisitions, the governor of Pennsylvania alone enjoyed the name of republican: his opinion of the secretary of the treasury and of his systems was known to be unfavourable. The secretary of this state possessed great influence in the popular society of Philadelphia, which in its turn influenced those of other states; of course he merited attention. It appears, therefore, that these men, with others unknown to me, all having without doubt RANDOLPH at their head, were balancing to decide on their party. Two or three days before the proclamation was published and of course before the cabinet had resolved on its measures. Mr RANDOLPH came to see me with an air of great eagerness, and made to me the overtures of which I have given you an account in my No. 6. Thus with some thousands of dollars the Republic could have decided on civil war or on peace! Thus the consciences of the pretended *patriots* of America have already their prices [*tarif.*] It is very true that the certainty of these conclusions painful to be drawn, will forever exist in our archives! What will be the old age of this government, if it is thus early decrepit!—Such, citizen, is the evident consequence of the system of finances conceived by Mr. HAMILTON. He has made of a whole nation a stock-jobbing, speculating, selfish people. Riches alone here fix consideration; and as no one likes to be despised, they are universally sought after. Nevertheless, this depravity has not yet embraced the mass of the people; the effects of this pernicious system have as yet but slightly touched them. Still there are patriots, of whom I delight to entertain an idea worthy of that imposing title. *Consult* MONROE, *he is of this number* He had apprised me of the men whom the current of events had dragged along as bodies devoid of weight. His friend MADDISON is also an honest man. JEFFERSON, *on whom the patriots cast their eyes to succeed the President, had foreseen these crises. He prudently retired*

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in order to avoid making a figure againſt his inclination in ſcenes, the ſecret of which will ſoon or late be brought to light.

17. As ſoon as it was decided that the French Republic purchaſed no men to do their duty, there were to be ſeen individuals, about whoſe conduct the government could at leaſt form uneaſy conjectures, giving themſelves up with a ſcandalous oſtentation to its views, and even ſeconding its declarations. The popular ſocieties ſoon emitted reſolutions ſtamped with the ſame ſpirit, and who, although they may have been adviſed by love of order, might, nevertheleſs, have omitted or uttered them with leſs ſolemnity. Then were ſeen coming from the very men whom we had been accuſtomed to regard as having little friendſhip for the ſyſtem of the treaſurer, harangues without end, in order to give a new direction to the public mind. The militia, however, manifeſted ſome repugnance, particularly in Pennſylvania, for the ſervice to which they were called. Several officers reſign; at laſt, by excurſions or harangues, incomplete requiſitions are obtained, and ſcattered volunteer corps from different parts make up the deficiency: How much more intereſting, than the changable men whom I have painted above, were thoſe plain citizens who anſwered the ſolicitations which were made to them to join the volunteers—"If we are required we will march; becauſe we do not wiſh not to have a government, but to arm ourſelves as volunteers would be in appearance ſubſcribing implicitly to the exciſe ſyſtem which we reprobate."

18. What I have ſaid above, authoriſes then our reſting on the opinion, become inconteſtible, that in the criſis which has burſt, and in the means employed for reſtoring order, the true queſtion was the deſtruction or the triumph of the Treaſurer's plans. This being once eſtabliſhed, let us paſs over the facts related in the common diſpatches, and ſee how the government or the treaſurer will take from the very ſtroke which threatened his ſyſtem the ſafe opportunity of humbling the adverſe party, and of ſilencing their enemies whether open or concealed. The army marched; the Preſident made known that he was going to command it; he ſet out for Carliſle; HAMILTON, as I have underſtood, requeſted to follow him; the Preſident dared not to refuſe him: It does not require much penetration to divine the object of this journey: In the Preſident it was wiſe, it might alſo be his duty; but in Mr. HAMILTON it was a conſequence of the profound policy which directs all his ſteps; a meaſure dictated by a perfect knowledge of the human heart. Was it not intereſting for him, for his party, tottering under the weight of events without, and accuſations within, to proclaim an intimacy more perfect than ever with the Preſident, whoſe very name is

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a ſufficient ſhield againſt the moſt formidable attacks? Now what more evident mark could the Preſident give of his intimacy, than by ſuffering Mr. HAMILTON, whoſe name even is underſtood in the weſt as that of a public enemy, to go and place himſelf at the head of the army which went, if I may uſe the expreſſion, to cauſe his ſyſtem to triumph againſt the oppoſition of the people? The preſence of Mr. HAMILTON with the army muſt attach it more than ever to his party; we ſee what ideas theſe circumſtances give birth to on both ſides, all however to the advantage of the Secretary.

19. Three weeks had they encamped in the weſt without a ſingle armed man appearing. However, the Preſident, or thoſe who wiſhed to make the moſt of this new manœuvre, made it public that he was going to command in perſon. The ſeſſion of congreſs being very near, it was wiſhed to try whether there could not be obtained from the preſſes, which were ſuppoſed to have changed, a ſilence, whence to conclude the poſſibility of infringing the conſtitution in its moſt eſſential part, in that which fixes the relation of the preſident with the legiſlature. But the patriotic papers laid hold of this artful attempt. I am certain that the office of the ſecretary of ſtate, which alone remained at Philadelphia (for while the miniſter of finance was with the army, the miniſter of war was on a tour to the Province of Maine, four hundred miles from Philadelphia) maintained the controverſy in favour of the opinion which it was deſired to eſtabliſh. A compariſon between the preſident and the Engliſh monarch was introduced, who, far removed from Weſtminſter, yet ſtrictly fulfils his duty of ſanctioning. It was much inſiſted on, that the conſtitution declares, that the preſident commands the armed force. This ſimilitude was treated with contempt. The conſequence of the power of commanding in perſon, drawn from the right to command in chief (or direct) the force of the ſtate, was ridiculed and reduced to an abſurdity, by ſuppoſing a fleet at ſea and an army on land. The reſult of this controverſy was, that ſome days after, it was announced, that the preſident would come to open the approaching ſeſſion.

20. During his ſtay at Bedford, the preſident doubtleſs concerted the plan of the campaign with Mr. LEE, to whom he left the command in chief. The letter by which he delegates the command to him is that of a virtuous man, at leaſt as to the major part of the ſentiments which it contains. He afterwards ſet out for Philadelphia, where he has juſt arrived, and Mr. HAMILTON remains with the army.

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21. This laſt circumſtance unveils all the plan of the ſecretary. He preſides over the military operations in order to acquire, in the ſight of his enemies, a formidable and impoſing conſideration. He and Mr. LEE, the commander in chief, agree perfectly in principles The governors of Jerſey and Maryland harmonize entirely with them. The governor of Pennſylvania, of whom it never would have been ſuſpected, lived intimately and publicly with HAMILTON. Such an union of perſons would be matter ſufficient to produce reſiſtance in the weſtern counties, even admitting they had not thought of making any.

22. The ſoldiers themſelves are aſtoniſhed at the ſcandalous gaiety with which thoſe who poſſeſs the ſecret proclaim their approaching triumph. It is aſked, of what uſe are fifteen thouſand men in this country, in which proviſions are ſcarce, and where are to be ſeized only ſome turbulent men at their plough. Thoſe who conducted the expedition know this; the matter is to create a great expenſe; when the ſums ſhall come to be aſſeſſed, no one will be willing to pay, and ſhould each pay his aſſeſſment, it will be done in curſing the inſurgent principles of the patriots

23. It is impoſſible to make a more able manœuvre for the opening of congreſs. The paſſions, the generous indignation which had agitated their minds in the laſt ſeſſion were about being renewed with ſtill more vigour; there was nothing to announce of brilliant ſucceſs which they had promiſed. The hoſtilities of Great-Britain on the continent ſo long diſguiſed, are now become evident, a commerce always harraſſed, ridiculous negociations lingering at London, waiting until new conjunctures ſhould authorize new inſults. Such was the picture they were likely to have to offer the repreſentatives of the people. But this criſis, and the great movements made to prevent its conſequences change the ſtate of things. With what advantage do they denounce an attrocious attack upon the conſtitution, and appreciate the activity uſed to repreſs it; the ariſtocratical party will ſoon have underſtood he ſecret; all the misfortunes will be attributed to patriots; the party of the latter is about being deſerted by all the weak men, and this complete ſeſſion will have been gained.

24. Who knows what will be the limits of this triumph? Perhaps advantage will be taken by it to obtain ſome laws for ſtrengthening the government, and ſtill more precipitating the propenſity, already viſible, that it has towards ariſtocracy.

25. Such are, citizen, the data which I poſſeſs concerning theſe events, and the conſequences I draw from them. I wiſh I may be deceived in my calculations, and the good diſpoſition

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of the people, their attachment to principles lead me to expect it. I have perhaps herein fallen into the repetition of reflections and facts contained in other dispatches: but I wished to present together some views which I have reason to ascribe to the ruling party, and some able manœuvres invented to support themselves. Without participating in the passions of the parties, I observe them, and I owe to my country an exact and strict account of the situation of things. I shall make it my duty to keep you regularly informed of every change that may take place; above all I shall apply myself to penetrate the disposition of the legislature: that will not a little assist in forming the final idea which we ought to have of these movements, and what we should really fear or hope from them.

Health and fraternity.

(Signed) JH. FAUCHET.

NUMBER V.

LETTER TO MAZZEI.

From the Paris Monteur (a French official Paper) of January 25, 1798.

This letter, literally translated, is addressed to M. MAZZEI, author of Researches, historical and political, upon the United States of America; now resident in Tuscany.

"OUR political situation is prodigiously changed since you left us. Instead of that noble love of liberty, and that republican government which carried us through the dangers of the war, an Anglo-Monarchico-Aristocratic party has risen. Their avowed object is to impose on us the *substance* as they have already given us the *form* of the British government. Nevertheless the principal body of our citizens remain faithful to republican principles. All our proprietors of lands are friendly to those principles as also the men of talents. We have against us (republicans) the *Executive Power*, the *Judiciary Power* (two of the three branches of our government) *all the officers of government, all who are seeking offices, all timid men who prefer the calm of despotism to the tempestuous sea of liberty, the British merchants and the Americans who trade on British capitals, the speculators, persons interested in the bank and public funds* (establishments invented with views of corruption, and to assimilate us to the British model in its corrupt parts.)

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" I ſhould give you a fever if I ſhould name the apoſtates who have embraced theſe hereſies ; men who were Solomons in council and *Sampſons* in *combat*, but whoſe hair has been cut off by the whore of England.*

" They would wreſt from us that liberty which we have obtained by ſo much labour and peril ; but we ſhall preſerve it.—Our maſs of weight and riches are ſo powerful, that we have nothing to fear from any attempt againſt us by force. It is ſufficient that we guard ourſelves, and that we *break* the *Lilliputian ties* by which they have bound us, in the firſt ſlumbers which ſucceeded our labours. It ſuffices that we *arreſt* the *progreſs* of that *ſyſtem* of *ingratitude* and *injuſtice* towards *France*, from which they would alienate us, to bring us under Britiſh influence," &c.

Thus far the letter, to which there are ſubjoined in the French paper lengthy remarks—what follows is a part of them :

" It is certain that of all the neutral and friendly powers, there is none from which France had a right to expect more intereſt and ſuccour than from the United States. *She is their true Mother Country*, ſince ſhe has aſſured to them their liberty and independence. Ungrateful children inſtead of abandoning her, they ought to have armed in her defence.

" The French government, in ſhort, has teſtified the reſentment of the French nation, by breaking off communication with an ungrateful and faithleſs ally," &c.

It is unneceſſary to trouble the reader with any remarks. The language of Mr. JEFFERSON's letter and the remarks in the French papers upon it, are too plain not to be underſtood. All that is neceſſary for the inquirer of truth is to aſk himſelf, am I to believe what Mr. JEFFERSON writes confidentially in his cloſet to a friend abroad, that the ties of his government muſt be broken ? or is there more belief to be given to open declarations at home of him and his friends, that he reſpects the conſtitution at a time popularity is ſought for ?

* It is hardly worth while, ſince the alluſion is ſo pointed, to remark that the writer meant Preſident WASHINGTON, who indeed was a "Sampſon in combat!—but "whoſe hair," according to Mr. JEFFERSON, "has been cut off by the whore of England" that is, bribed by England. Is there a man not devoted to Mr. JEFFERSON's party and dead to the language of truth, who can believe ſuch ſlander of the deceaſed venerable chief? It is a fact, that from the time the letter to MAZZEI appeared, Mr. JEFFERSON never after that had any intercourſe at Mount Vernon, while General WASHINGTON was alive; nor has he or his adherents ceaſed the letter.

NUMBER VI.

FROM THE RICHMOND EXAMINER.

Copy of Mr. JEFFERSON's Letter in reply to one addressed to him by a Citizen of Berkeley.

Monticello, September 4, 1800.

SIR,

YOUR favour of August 26th has been duly received, and is entitled to my thankfulness for the personal considerations you are pleased to express in it. How far the measure proposed might have the expected effect, you can best judge: however, in the great exercise of right in which the citizens of America are about to act, I have, on mature consideration, seen, that it is *my duty to be passive.* The interests which they have at stake are entitled to their whole attention, unbiassed by personal esteem or local considerations; and *I am far from the presumption of considering myself equal to the awful duties of the first magistracy of this country.* That there should be differences of opinion among our fellow-citizens is to be expected always. Men who think freely, and have the right of expressing their thoughts, will differ. It is true, that these *differences* have *of late* been *artificially increased;* but they are now again subsiding to their natural level, and all will soon come right, if no acts of violence intervene.

The great question which divides our citizens is, whether it is safest that *a preponderance of power should be lodged with the Monarchical or the Republican branch of our government?* *Temporary panics* may produce advocates for the former opinion, even in this country: but the opinion will be as short-lived as the panic, with the great mass of our fellow citizens. There is one circumstance which will always bring them to rights,—*a preponderance of the executive over the legislative branch* cannot be maintained but by immense patronage, by multiplying offices, making them very lucrative, by armies, navies, &c. which may enlist on the side of the patron all those whom he can interest, and all their families and connexions; but *these expenses must be paid by the labouring citizen;* he cannot long continue, therefore, the advocate of opinions which, to say only the least of them *doom the labouring citizens to toil and sweat for useless pageants.*

I should be unfaithful to my own feelings, were I not to say, that it has been the greatest of all human consolations to me to be considered by the republican portion of my fellow citizens, as the safe depositary of their rights. The first wish of my heart is, to see them so guarded as to be safe in any hands, and not to depend on the personal disposition of the depositary: and I hope this to be practicable as long as the

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people retain the ſpirit of freedom. When that is loſt, all experience has ſhewn, that no forms can keep them free againſt their own will. But that corrupt ſtate of mind muſt be very diſtant in a country where, for ages to come, *unoccupied ſoil will ſtill offer itſelf to thoſe who wiſh to reap for themſelves what themſelves have ſown.*

Our chief object at preſent ſhould be, to reconcile *the diviſions* which have been *artificially excited*, and *to reſtore ſociety to its wonted harmony*. Whenever this ſhall be done, it will be found, that there are *very few real opponents to a government elective at ſhort intervals.*

Accept aſſurances of the reſpect, Sir,

Of your very humble ſervant.

TH. JEFFERSON.

The features of the foregoing letter, addreſſed to a ſimple and illiterate old man, are well calculated to captivate and hold in thrald m the minds of the uninformed. To the more diſcerning it preſents a very different aſpect. The pretenſions to *an abſolutely paſſive reſignation*, and *to ſingular modeſty*, compel even thoſe who are willing to forget, to recollect the unprincipled exertions, which were inceſſantly made to combine and bring into operation, every engine, however worthleſs, for the purpoſe of ſecuring even at the hazard of the conſtitution, the union and the peace of our country that identical ſtation, concerning which theſe more than modeſt profeſſions are made. The pretenſions to extraordinary zeal in the cauſe of republicaniſm are evidenced by an apparent diſpoſition to degrade the object, to which aſpiring ambition was ſtruggling to riſe. That ambition, as well as a ſpirit of calumny againſt the then exiſting adminiſtration, are betrayed in the attempt to miſrepreſent the juſt alarm of the country, at the threats of France of national annihilation, as *temporary panics, artificially excited and increaſed* by the government, whilſt devotion to France according to the declaration of DUPONT DE NEMOURS, and reſentment at the reſiſtance of the government, are equally betrayed in the attempt to pervert the neceſſary preparations for defence into *uſeleſs pageants*, and proviſions for the perpetuation of power. The unhallowed deſigns of unprincipled ambition are again betrayed by extraordinary ſympathy pretended for *the labouring citizens* and by groſs flattery to thoſe, who are denominated *the republican portion*, whilſt the barriers of the conſtitution, the only means of *ſo guarding the rights of all, as to be ſafe in any hands, and not to depend upon the perſonal diſpoſition of any depoſitary*, are to be brought into jeopardy by ſuch advances of a depoſitary, the avowed adverſary of

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the independence of the judiciary, the avowed concentrator of legiſlative and executive powers, and the avowed opponent of an equipoiſe in the government. To crown the whole, a ſpirit of *reconciliation and harmony* is claimed in the end. This *conciliatory and harmonizing ſpirit* has ſince manifeſted itſelf by denouncing, as a *political ſect*, thoſe *under whoſe honourable appellation*, an aſylum has been ſought, and by proſcribing even *the beſt men* upon avowed party principles The operations of this harmonizing ſpirit are at length to reſult in what? Why in a proof, *that there are very few real opponents to a government elective at ſhort intervals.* Where is the evidence that there are any ſuch? Let him who puts forth the illiberal and unfounded inſinuation produce his evidence of its truth, or let him ſtand, as he ought to do, a calumniator convict.

NUMBER VII.

Extract from the Documents accompanying Mr. PICKERING's Letter to General PINCKNEY, as communicated by Preſident WASHINGTON to Congreſs in his Meſſage of January 19, 1797.

No. 114.

[TRANSLATION.]

24th Meſſidor, 3d Republican year, 12. *July,* 1795. *O. S.*

P. A. ADET preſents his compliments to Mr. RANDOLPH, and ſends him the letter which he ſhould have addreſſed to him ſome days ago, if the fever he is afflicted with had permitted him to attend to buſineſs. Mr. RANDOLPH will find with that letter a part of P. A. ADET's inſtructions, relative to the articles of the treaty which the French government has inſtructed him to ſtipulate poſitively. The other articles, founded on reciprocal advantages, are left to the courſe of the negociation which is to eſtabliſh them.

P. A. ADET will have the honour of ſeeing Mr. RANDOLPH as ſoon as his health will permit.

No. 116.

[TRANSLATION]

Extract from the Inſtructions given by the French Government to Citizen ADET.

The miniſter plenipotentiary ſhall ſtipulate poſitively and without reſerve, the reciprocal exemption from the tonnage

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duty, so necessary to our mercantile marine. This exemption, implicitly assured in the ports of the United States by the 4th and 5th articles of our commercial treaty, has never been executed therein; and since the organization of their customs, a very burthensome tonnage duty has been rigourously exacted on our merchant vessels. Even in 1793 a severity and an injustice were used which the American government should not have suffered. But the *respective naturalization of the French and American citizens, proposed by Mr. Jefferson, and desired by the French nation* will facilitate this stipulation of a reciprocal exemption from tonnage, and render it less offensive to the powers who, in virtue of treaties, might claim a participation in the same advantages: as the *casus fœderis* would by this stipulation be changed in this respect.

NUMBER VIII.

THE word "revolution" and its derivative "revolutionary" like many terms in every language, may be used with a considerable variety of signification. In the country from whence we had derived our language and the principles of our laws, as well as our origin, the term "revolution," in a political sense, had been long used to designate that settlement of the government, which had taken place upon the abdication of James II. and the admission of William III and Mary, the daughter of James, to the throne, in 1688, by *a recurrence* to its original and fundamental principles, as they had been long asserted and maintained on the one part, though disputed and sometimes violated on the other. In America the term "revolution" had been used to signify the crisis which produced a severance of the British empire, and the establishment of the United States as a separate and independent nation. That event was owing to a contest, *not for new, but for ancient and fundamental principles on our part*, an equal right to participate in which had been denied by Britain to the people of the United States, and by the people of the United States asserted and successfully maintained, under the auspices of Washington. In this sense the term "revolution" had been used subsequent to the establishment of American independence, and previous to the commencement of the convulsions in France. Of this adherence to ancient princi-

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ples, as the object of conteſt, the cleareſt proof exiſts in the declaration of rights of almoſt every ſtate in the union.

The convulſive ſtate of France has alſo been called a revolution, and by the confuſion of ideas, excited in conſequence of the application of one and the ſame name to events or criſes wholly different, much miſchief has probably been done. The political events, in Britiſh and American hiſtory, ſtyled *revolutions*, having originated in the aſſertion of ancient principles, calculated to give effect to a rational, temperate, and practicable liberty, conſiſtent with the preſervation of juſtice on the one hand, and the authority of government on the other, and having terminated, in conſequence of their adaptation to previous and approved uſages, and to the actual ſituation of thoſe whom they concerned, in the happieſt manner, a ſignification highly favourable and popular became attached to the term "revolution" itſelf. That favourable ſignification ſtill attended the term, when applied to the ſtate of France, though nothing, in fact, could be more diſſimilar. The principles of the revolution of France, as it has been called, had nothing in them of preſervation: they went to a perfect eraſure of all former principles, rights, and ideas: every thing was changed; ſociety and government were broken up from their foundations; conſequently, there remained nothing to which a recurrence might be had. The reſult is known. In what ſenſe is WASHINGTON to be ſtyled a revolutionary character? The expreſſion itſelf is of modern invention and of foreign extraction. It was not to be found in American language, till, like many other modern terms, it was ſpuriouſly begotten by an illicit connection with French principles. Was WASHINGTON then, in French ſignification, *our firſt and greateſt revolutionary character?* If his ſpirit takes any concern in our preſent humiliating condition, and deigns to attend to our new-fangled terms, is it poſſible, that it can find pleaſure in this equivocal, to ſay the leaſt of it, compliment to his memory?

NUMBER IX.

CAN it be hypercritical to ſuppoſe a mental reſervation here? During the diſcuſſion of the ſubject of a national monument to be erected to the memory of WASHINGTON, a variety of artifices were recurred to, in order to prevent the adoption of any adequate plan for that purpoſe. The expenſe of ſuch a work was much

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dwelt on. This was known to be a popular topic, and of conſiderable efficacy with ſome who were not likely to be influenced againſt it by any other conſideration. But this was nevertheleſs an oſtenſible, rather than a real objection with thoſe who were moſt ſtrenuouſly oppoſed to it. Averſe to incur directly an imputation of hoſtility to his memory, they were willing to concur in the erection of a monument, and that too at conſiderable expenſe, provided that monument ſhould be of ſuch kind as, having relation ſolely to his former military ſervices as a general, might caſt a ſhade of cenſure, by invidious implication, upon his ſubſequent political ſervices as preſident. Hence the recurrence to the old reſolution of congreſs concerning an equeſtrian ſtatue in bronze. That, by reaſon of the time of its adoption, neceſſarily excluded every idea of a reference to ſubſequent events. It was foreſeen that a great permanent national monument, erected to his memory *generally* would be peculiarly calculated to recal the mind of every beholder to a ſtate of ſolemn contemplation upon the character, principles, and conduct of him to whoſe memory it ſhould be erected. It was foreſeen, that the pure virtue, the illuſtrious and diſintereſted ſervices, and the ſingular prudence and judgment which had marked his courſe through life, and which had led to the moſt happy reſult in relation to his country, could not fail to attract the approbation and admiration of thoſe who ſhould ſeriouſly contemplate that virtue, thoſe ſervices, and that prudence and judgment. It was foreſeen, that this approbation and admiration would naturally tend to fix the public mind upon the means by which that happy reſult had been produced. But this, it was foreſeen, muſt alſo tend to the political condemnation of thoſe who had uniformly cenſured and oppoſed the principles and meaſures of his adminiſtration. They therefore oppoſed the erection of a monument which ſhould at once atteſt the gratitude of their country, and contribute to the permanency of its happineſs. Is it not equally probable, that one who had ungenerouſly repreſented WASHINGTON as an *apoſtate*, as a *Sampſon in combat, whoſe hair had been cut off by the whore of England*, ſhould be cautious how he admitted *his continuing title to his country's love, or to a ſtation in the faireſt page of the volume of faithful hiſtory?*

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NUMBER X.

"*TELL me by what means ye have loſt your ſo flouriſhing Republic in ſo ſhort a time? There came forth a ſwarm of orators, conſiſting of ſtrangers, fools, and unexperienced youths.*"

Poets have been often ſaid to be prophets. Were we to concurin attributing a portion of the prophetic ſpirit to old Nævius (Vide Ciceronis Catonem majorem, cap. 6) we might with the aid of a little enthuſiaſm attribute to him viſions which Columbus never ſaw. We might ſuppoſe that he foreſaw not only Columbus's voyage, but the voyages of many late imported patriots, who better than any others anſwer to his deſcription of "*novi*" and who, according to Roman ideas, muſt be ſuch as nobody knew any thing about before. Of theſe new imported patriots, theſe "*oratores novi*," ſome have come from countries unknown, ſome from countries now no more, and ſome, though from countries known, of ſuch doubtful characters, that it had been better could it have been ſaid of them, that nothing is known, ſince nothing good is known. For *the virtuous, peaceful foreigner*, who comes to ſeek peace and an honeſt livelihood in our country, may all the kindneſs of hoſpitality, and bleſſings more than he has ever conceived, be ſhowered down upon him. But for *the noiſy, meddling, miſchievous intruder*, let him be ſcouted by every real American citizen, who reſpects the original principles and partook of the original rights of American independence. "*A ſtranger, who at Athens intermeddled in the aſſemblies of the people, was puniſhed with death*," ſays an ancient writer. "*This was* (ſays MONTESQUIEU) *becauſe ſuch a man uſurped the rights of ſovereignty.*" Without proceeding to the democratic extremity of Athenian ſeverity, we might nevertheleſs frown into ſilence thoſe buſy diſturbers of the public peace, the "*oratores novi*," whatever might be the mode taken by them for diffuſing their peſtiferous principles. Their ſilence would, without doubt, not a little diminiſh the inconvenience ſuffered from the "*oratores ſtulti*," whoſe numbers, as well as infatuation have doubtleſs been increaſed by the influence of the "*oratores novi*." The ſilence of the firſt claſs, the "*Oratores novi*," and the diminution of the ſecond claſs, the "*oratores ſtulti*" would probably render *the mild corrective of Connecticut* ſufficient for the third claſs, the "*oratores adoleſcentuli*." Inquiries are ſaid to have been made ſome time ſince of a gentleman of that State whether freedom of ſentiment was not there unduly reſtrained by the authority of the prieſthood, and the influence of theſe in power? He is ſaid to have replied, by explaining the frequency, nature and buſineſs of the various *town and other meetings* of the people, in

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which every man enjoyed and exercised the utmost freedom of speech and of sentiment, consistent with order and decorum. He however is said to have concluded his information with an observation to the following effect.—"*If a young man were to rise up on one of those occasions, and tell the meeting that the old men were fools; and that neither they nor their ancestors had ever yet acquired any knowledge of their own interests, or knew what was for the advantage of the State; but that he could instruct them in all these things:—To be sure* (said he smiling) *the people would laugh at him.*" Unless some correctives can be applied to the "*oratores novi, stulti, adolescentuli,*" it requires not the ken of second sight, nor the skill of a soothsayer to foresee and predict that the period is not far distant, when it may be truly exclaimed in the words of APPIUS CLAUDIUS the blind;

"Quo vobis mentes, rectæ quæ stare solebant
"Antehac, dementes sese flexêre viaï?"

NUMBER XI.

"THE laws and the constitution of the kingdom of England, (says Mr. BURKE) entrust the sole and exclusive right of treating with foreign potentates to the king. This is an undisputed part of the legal prerogative of the crown. However, notwithstanding this, Mr. FOX, without the knowledge or participation of any one person in the house of commons, with whom he was bound by every party principle, in matters of delicacy and importance, confidentially to communicate, thought proper to send Mr ADAIR as his representative, and with his cypher, to St Petersburgh, there to frustrate the objects for which the minister from the crown was authorized to treat. He succeeded in this his design, and did actually frustrate the king's minister in some of the objects of his negociation.

"This proceeding of Mr. Fox does not (as I conceive) amount to absolute high treason; Russia, though on bad terms not having been then declaredly at war with this kingdom. But such a proceeding is, in law, not very remote from that offence, and is undoubtedly a most unconstitutional act, and a high treasonable misdemeanor.

"The legitimate and sure mode of communication between this nation and foreign powers, is rendered uncertain, precarious and treacherous, by being divided into two channels, one with

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the government, one with the head of a party in oppoſition to that government; by which means the foreign powers can never be aſſured of the real authority or validity of any public tranſaction whatſoever.

"On the other hand, the advantage taken of the diſcontent which at that time prevailed in parliament and in the nation, to give to an individual an influence directly againſt the government of his country, in a foreign court, has made a highway into England for the intrigues of foreign courts in our affairs. This is a ſore evil: an evil, from which, before this time, England was more free than any other nation. Nothing can preſerve us from that evil—which connects cabinet-factions abroad, with popular factions at home—but the keeping ſacred the crown, as the only channel of communication with every other nation."—*Extract from Mr. BURKE's Poſthumous Works, part 2d, page* 14.

The conſtitution of the United States declares, that "He (the Preſident) ſhall have power by and with the advice and conſent of the Senate, to make treaties, provided two thirds of the ſenators preſent concur, and he ſhall nominate, and by and with the advice and conſent of the Senate ſhall appoint ambaſſadors, other public miniſters and conſuls"—"He ſhall receive ambaſſadors and other public miniſters;"—It further declares that "No State ſhall enter into any treaty, alliance or confederation"—that "No State ſhall without the conſent of Congreſs, enter into any agreement or compact with another State, or with a foreign power."

The doctrines laid down by Mr. BURKE, in the preceding extract, in relation to the kingdom of England, ſubſtantially apply to every independent country, whatever may be its form of government. If the principle of keeping ſacred the authority of that department of the government which is deſignated by the conſtitution, as the only channel of communication with every other nation, be not adhered to, that highway into our country for the intrigues of foreign courts in our affairs, muſt be made, and that ſore evil which connects cabinet-factions abroad with popular factions at home, (to uſe the language of Mr. BURKE)—or thoſe dangers againſt which WASHINGTON warned us, when he ſaid "Againſt the inſidious wiles of foreign influence (I conjure you to believe me, fellow citizens) the jealouſy of a free people ought to be conſtantly awake,"—muſt gain ingreſs over that highway into our country.

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NUMBER XII.

TO give some idea of the general depravation of manners, and perversion of ideas prevalent in France; and of the character of the directorial government, let the following brief extracts suffice.

In page 51, speaking of the trite apothegms of the time, CARNOT tells us the following were current. "Principle is only fit for fools. The constitution is only fit for fools,—honour and fidelity to our engagements are only fit for fools—there is no such thing as right, but for him who is the strongest,—all other theories of pretended principles are absurd, and he who appeals to them is a dolt."

In page 90, the following passage occurs. "The system pursued by the directory is by no means ambiguous to any one who has attentively observed their proceedings. Their system is evidently to found the power of the nation, less on the aggrandizement of the republic, than on the weakness and destruction of its neighbours:—to fight them one against another, to treat them as friends, so long as they have occasion to paralize them by exhausting all the succours they can yield; and when the time is come for crushing them, instantly to employ their fertile genius in inventing sufficient pretexts to practise the fable of the wolf and the lamb."

In page 156, CARNOT relates an interview between a shoemaker and himself, in which the shoemaker had honoured CARNOT by considering him as a BRUTUS: the tenor of the conversation draws the following reflexions from CARNOT, "From this I perceived that this class of society had been purposely filled with such wild ideas, that with them every constitution, every law, and every government whatever, appeared an invasion of liberty, every man in office a tyrant, and every one who proposed to kill them, especially if he undertook the office himself, as a BRUTUS."

In page 182, we find the following passage—"Who are the decided enemies of republican government, but those who strive to render it odious? Since words alone are of no value, it is experimental happiness, which the people require. If they are wretched in a republic, they will demand a monarchy. If they are made to believe, that a republic offers nothing, but a perpetual state of self denial,—that it is a government where justice is administered by cannon-balls and where it is dispensed with, when any one cuts the throat of a royalist,—where fear is the universal principle of action,—where natural affections are weaknesses, and the prejudices of education are considered as crimes, where decorum and good faith are ridiculous, and a wish for

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tranquillity a breach of public duty: where liberty consists in a right to oppress, and the character of the goverament is violent and arbitrary; I say, if such a description of a republic is offered to the people, they will demand a monarchy. Such alas! is the false, but miserable opinion, which the greater part of the French nation have been brought to adopt. Examine them, particularly in the country, and you will now discover, that each of them has quietly formed a distinct and twofold arrangement of his fellow citizens. In one of these classes he places those, who are gentle in their manners, of peaceable dispositon, very susceptible of alarm, but regular in their lives, and supporters of good order, and these he will describe as aristocrats. In the other, he arranges all those whose qualities appear to be insensibility, effrontery, luxuriousness, calumny and impiety; and he names them patriots"

The exclusive patriots and republicans of America mourned the fall of the directory, and consigned *their overthrower* to the fate destined for CARNOT: for this, see the publications both in the Aurora and in the Universal Gazette, upon the first receipt of the news of that event. Of the coincidence of the principles and sentiments between the *soi-disant* patriots of the one country and the other, every man can judge for himself.

NUMBER XIII.

Extract from the Inaugural Address of Mr. JEFFERSON, when inducted into the office of Vice-President of the United States, March 4, 1797.

"I MIGHT here proceed, and with the greatest truth, to declare my zealous attachment to the constitution of the United States; that I consider the union of these states as the first of blessings, and as the first of duties the preservation of that constitution which secures it: but I suppose these declarations not pertinent to the occasion of entering into an office whose primary business is merely to preside over the forms of this house; and no one more sincerely prays that no accident may call me to the higher and more important functions which the constitution eventually devolves on this office. These have been justly confided to the eminent character who has preceded me here, whose talents and integrity have been known and revered by me through a long course of years; have been the foundation of a

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cordial and uninterrupted friendſhip between us; and I devoutly pray he may be long preſerved for the government, the happineſs, and proſperity of our common country."

NUMBER XIV.

INAUGURAL SPEECH.

Delivered March 4. 1801.

Friends and Fellow-Citizens,

CALLED upon to undertake the duties of the firſt executive office of our country, I avail myſelf of the preſence of that portion of my fellow-citizens which is here aſſembled, to expreſs my grateful thanks for the favour with which they have been pleaſed to look towards me, to declare a ſincere conſciouſneſs that the taſk is above my talents, and that I approach it with thoſe anxious and awful preſentiments which the greatneſs of the charge, and the weakneſs of my powers ſo juſtly inſpire. A riſing nation, ſpread over a wide and fruitful land, traverſing all the ſeas with the rich productions of their induſtry, engaged in commerce with nations who feel power and forget right, advancing rapidly to deſtinies beyond the reach of mortal eye: when I contemplate theſe tranſcendant objects, and ſee the honour, the happineſs, and the hopes of this beloved country committed to the iſſue and the auſpices of this day, I ſhrink from the contemplation, and humble myſelf before the magnitude of the undertaking Utterly indeed ſhould I deſpair, did not the preſence of many whom I here ſee remind me, that in the other high authorities provided by our conſtitution I ſhall find reſources of wiſdom, of virtue, and of zeal, on which to rely under all difficulties. To you, then, gentlemen who are charged with the ſovereign functions of legiſlation, and to thoſe aſſociated with you, I look with encouragement, for that guidance and ſupport which may enable us to ſteer with ſafety the veſſel in which we are all embarked, amidſt the conflicting elements of a troubled world.

During the conteſt of opinion through which we have paſt, the animation of diſcuſſions and of exertions has ſometimes worn an aſpect, which might impoſe on ſtrangers unuſed to think freely, and to ſpeak and to write what they think; but this being now decided by the voice of the nation, enounced according to the rules of the conſtitution, all will of courſe arrange themſelves under the will of the law, and unite in common

efforts for the common good. All too will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights which equal laws must protect, and to violate which would be oppression. Let us then, fellow-citizens, unite with one heart and with one mind—let us restore to social intercourse that harmony and affection, without which liberty, and even life itself, are but dreary things.—And let us reflect, that having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little if we countenance a political intolerance, as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonising spasms of infuriated man, seeking through blood and slaughter his long lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some, and less by others; and should divide opinions as to measures of safety; but every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all republicans: we are all federalists. If there be any among us who would wish to dissolve this union, or to change its republican form, let them stand distinguished, as monuments of the safety with which error of opinion may be tolerated, where reason is left free to combat it. I know indeed that some honest men fear that a republican government cannot be strong—that this government is not strong enough. But, would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear, that this government, the world's best hope, may, by possibility, want energy to preserve itself? I trust not. I believe it the only one, where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others? Or have we found angles, in the form of kings to govern him? let history answer this question.

Let us then with courage and with confidence, pursue our own federal and republican principles; our attachment to union and representative government.—Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high minded to endure the degradations of the other; possessing a chosen country, with room enough for our

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descendants to the thousandth and thousandth generation, entertaining a due sense, of our equal right to the use of own faculties, to the acquisitions of our own industry, to honour and confidence from our fellow citizens, resulting not from birth, but from our actions and their sense of them enlightened by a benign religion, professed indeed and practised in various forms, yet all of them inculcating honesty, truth, temperance, gratitude and the love of man; acknowledging and adoring an overruling providence, which by all its dispensations proves that it delights in the happiness of man here, and his greater happiness hereafter; with all these blessings, what more is necessary to make us a happy and prosperous people? Still one thing more, fellow-citizens, a wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuit of industry and improvement, and shall not take from the mouth of labour the bread it has earned. This is the sum of good government; and this is necessary to close the circle of our felicities.

About to enter, fellow-citizens, on the exercise of duties which comprehend every thing dear and valuable to you, it is proper you should understand, what I deem the essential principles of our government, and consequently those which ought to shape its administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political:—peace, commerce and honest friendship with all nations, entangling alliances with none; the support of the state governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies: the preservation of the general government in its whole constitutional vigour, as the sheet anchor of our peace at home, and safety abroad: a jealous care of the right of election by the people, a mild and safe corrective of abuses, which are lopped by the sword of revolution where peaceable remedies are unprovided:—absolute acquiescence in the decisions of the majority, the vital principle of republics, from which is no appeal but to force, the vital principle and immediate parent of despotism:—a well disciplined militia, our best reliance in peace, and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense that labour may be lightly burthened; the honest payment of our debts, and sacred preservation of the public faith; encouragement of agriculture, and of commerce, as its handmaid; the diffusion of information, and arraignment of all abuses at the

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bar of public reaſon; freedom of the preſs; and freedom of perſon, under the protection of the habeas corpus; and trial by juries impartially ſelected. Theſe principles form the bright conſtellation, which has gone before us, and guided our ſteps through an age of revolution and reformation. The wiſdom of our ſages, and blood of our heroes have been devoted to their attainment; they ſhould be the creed of our political faith; the text of civic inſtruction. the touchſtone by which to try the ſervices of thoſe we truſt; and ſhould we wander from them in moments of error or alarm, let us haſten to retrace our ſteps and to regain the road which alone leads to peace, liberty and ſafety.

I repair then fellow citizens, to the poſt you have aſſigned me. With experience enough in ſubordinate offices to have ſeen the difficulties of this the greateſt of all, I have learnt to expect that it will rarely fall to the lot of imperfect man to retire from this ſtation with the reputation, and favour which brings him into it. Without pretentions to that high confidence you repoſed in our firſt and greateſt revolutionary character, whoſe pre-eminent ſervices had entitled him to the firſt place in his country's love, and deſtined for him the faireſt page in the volume of faithful hiſtory, I aſk ſo much confidence only as may give firmneſs and effect to the legal adminiſtration of your affairs. I ſhall often go wrong through defect of judgment.

When right, I ſhall often be thought wrong by thoſe whoſe poſitions will not command a view of the whole ground. I aſk your indulgence for my own errors, which will never be intentional; and your ſupport againſt the errors of others, who may condemn what they would not, if ſeen in all its parts. The approbation implied by your ſuffrage, is a great conſolation to me for the paſt; and my future ſolicitude will be, to retain the good opinion of thoſe who have beſtowed it in advance, to conciliate that of others, by doing them all the good in my power, and to be inſtrumental to the happineſs and freedom of all.

Relying then, on the patronage of your good will, I advance with obedience to the work, ready to retire from it whenever you become ſenſible how much better choices it is in your power to make. And may that infinite Power, which rules the deſtinies of the univerſe, lead our councils to what is beſt, and give them a favourable iſſue for your peace and proſperity.

THOMAS JEFFERSON.

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NUMBER XV.

Extract from the "debate on the reſolution of Mr. DAVIS, that the tax on ſtills, refined ſugars, ſtamps, &c. ought to be taken off." From the Waſhington Federaliſt of February 16. 1802.

Mr. DAVIS. "IT was in the recollection of the houſe, that he had yeſterday, in conſequence of the great delay practiſed by the commitee of ways and means, aſked, in the moſt reſpectful terms he could uſe, for information, to which he deemed himſelf entitled, as a member of this houſe. When he ſought this information and aſked, why no report had been made on the ſubject of repealing internal taxes? when a report would be made? or what that report would probably be? no anſwer had been given. The chairman of the committee had not deigned to give an anſwer: no gentleman would break ſilence. *He was not willing to ſubmit to this ſilent legiſlation: there might be ſome gentlemen, who would riſe, or vote in favour of a motion, becauſe it came from one of half a dozen members of this houſe, but he would not do it.* He repreſented as many freemen as any member of the houſe: he felt himſelf entitled to quite as much reſpect as any other, and he thought it was the duty of the members of the committee to give the information, which it was his right to aſk for. *To gentlemen, who were not in the ſecrets of the cabinet, and who were not cloſetted before meaſures were introduced into this houſe, it was but reaſonable to give information, to enable them to underſtand the ſubject, or to adviſe their conſtituents, what would probably be the proceedings of Congreſs. As however gentlemen would not condeſcend to give information that is aſked for, and were ſilent, becauſe they underſtood a ſubject, and might ſuppoſe other gentlemen would vote for meaſures, becauſe the mover approved them* he felt diſpoſed to do himſelf juſtice, and would therefore offer reſolutions to the houſe, and their vote will determine, whether the internal taxes ought to be repealed, and if they ſhould be agreed to, he would then refer them to the committee of ways and means to bring in a bill.

It was now two months ſince this ſeſſion began. The ſubject of internal taxes is well underſtood: the opinions of gentlemen are probably ripe. Let us have the deciſion of the houſe: it is highly intereſting to have it now. The time is near, when diſtilleries muſt be uſed: if the tax on them be taken off, they will be uſed, if not, many of them will be idle.

Why poſtpone? Why keep the public mind in agitation, in ſuſpenſe? If it is intended to repeal, do it now: if not, ſay ſo. No one knows the opinion of the committee, except poſſibly

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ſome few, who are in their ſecrets. He hoped the houſe would immediately proceed to a diciſion.

He had been informed that *the ſubject was before a certain officer of government, he thought ſuch ſtrange proceeding: he thought the committe themſelves were to decide.*"

NUMBER XVI.

DUMB LEGISLATION;

Or an eaſy Method of demonſtrating the propriety of withholding information from the Public.

IN the houſe of repreſentatives, Monday, January 25, 1802, Mr. BAYARD called up the following reſolution, which he had ſome days previouſly laid upon the table, viz.

"*Reſolved*, That the ſecretary of the treaſury be required to lay before this houſe, an account, in detail, of the expenſes incurred in the collection of the internal revenues of the United States; diſtinguiſhing, where the ſame may be practicable, the expenſes attending the collections in each branch of the ſaid revenue, and alſo, an eſtimate of the reduction of ſaid expenſes which may conveniently be made."

The reſolution being read, he roſe and obſerved:

As it is extremely poſſible, Mr. Speaker, that it is deſigned, that this reſolution ſhall ſhare the ſame fate with that which the reſolution of the gentleman from New-York experienced this morning, I ſhall be allowed at leaſt, by publicly ſtating, to juſtify to the world the motive which induced me to bring it forward.—[Mr. B alluded to a reſolution offered by Mr. T. Morris, the object of which was, to direct the ſecretary of the treaſury to ſtate to the houſe the amount of ſtamp duties collected in each ſtate, diſtinguiſhing what part was paid by the commercial cities. When the reſolution was taken up, there was a call for the queſtion. Nothing was ſaid againſt the propriety of it. It being merely a call for information, and conſidered ſo much a matter of courſe to agree to ſuch reſolutions, when no oppoſition was made to them, it was not ſuppoſed neceſſary to ſay any thing on the propriety and reaſonableneſs of the reſolution. Yet, to the aſtoniſhment of its friends, when the queſtion was put, there were for it 34, againſt it 54.]

Mr. BAYARD proceeded to urge the importance of the information called for in the reſolution, inſiſted that it was of a kind which had never been denied to any member who had requeſted

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it; and called upon the miniſterial gentlemen to ſhew, if they could, why it ſhould not be granted in this inſtance.

"Do gentlemen mean," ſaid he, "to lock up the doors of the executive offices, and deny the information thoſe offices were deſigned to ſupply to this houſe? Are they afraid of the light which may be thrown on this ſubject? Are they afraid that it will be diſcovered that it is not the general good which they are purſuing, but local and partial advantages?

Can information injure us? If the project contemplated is a correct one, will it not be promoted rather than obſtructed by the information called for?

For my own part, ſaid Mr. B. I want this information, in order to diſcover the courſe which it is my duty to purſue. I do not feel myſelf committed as to any particular plan.

If it ſhould really be found, that it is better to tax articles of neceſſary conſumption than thoſe of mere luxury; that a tax on carriages is more oppreſſive than a tax on ſalt or brown ſugar, I ſhould certainly yield to the conviction, however unexpectedly it might aſſail me.

Sir, ſaid Mr. B. I muſt rely that the reſolution will be agreed to. There is not a precedent in our annals of oppoſition to ſuch a reſolution. If, however, one is now to be introduced, I think it proper, that the names of thoſe gentlemen ſhould hereafter appear by whom it was reſiſted, and by whom it was eſtabliſhed. He therefore hoped the queſtion would be taken by yeas and nays.

Mr. GRISWOLD ſtated that the expenſe of collecting the internal taxes was very different upon different articles. He remarked that the ſecretary, in his report, had declared that the expenſe of collecting the internal taxes amounted to nearly 20 per cent. on the amount collected. It appeared, however, by the ſtatements to which the ſecretary alluded, that the charge for collecting one branch of this revenue did not amount to 5 per cent. From this ſtatement he argued the great importance of the information contemplated in the reſolution.

The conſent of the houſe ſaid Mr. G. to every call for information, had formerly been ſo much a matter of courſe, that he ſhould not have troubled the houſe with any remarks upon ſo plain a queſtion as the preſent, had not the experience of this day proved, that gentlemen were not always to be indulged by the houſe with the information which they required; and the profound ſilence which had at this time been obſerved by thoſe gentlemen who could either admit or reject the reſolution, appeared to indicate a determination on their part to refuſe the important and neceſſary information required by the reſolution. He did preſume, however, that upon this occaſion, the houſe would

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conſent to the reſolution, and more particularly, as the report of the ſecretary of the treaſury, which had been read proved ſo clearly the neceſſity of paſſing it.

No reply whatever was made to theſe arguments, and to many others which were forcibly urged in favour of the reſolution.

Mr. HUGER advocated the reſolution.

Mr. RUTLEDGE confeſſed himſelf much puzzled by the new forms of proceeding this day adopted. Ever ſince he had the honour of a ſeat in congreſs, it had been invariably the practice, when meaſures were propoſed not agreeable to the majority, for them to offer their objections to them. This had ever been the practice, and the experience of its convenience offered ſtrong reaſons for its continuance. When the majority ſtated their objections to any meaſure, the minority, in ſuſtaining it, anſwered them fully: thus both ſides acted underſtandingly, and when the proceedings of the national legiſlature went out to the people, they were at the ſame time informed of the reaſons under which their repreſentatives had legiſlated. This had not only been the uſage in congreſs, but the form of proceeding in all repreſentative bodies with whoſe hiſtory we are acquainted.—Even in the Britiſh houſe of commons, which gentlemen had often and emphatically ſtyled a mockery of repreſentation, ſo great is the reſpect paid to public opinion, that the majority deem it their duty to aſſign, in debate, the reaſons of their conduct.—Although the miniſter in England, has quite as much confidence in the ſtrength of his majority, as gentlemen here can have in theirs, yet, in feeling power, he does not forget right, and his regard for public opinion is ſo great, that he never ſecures his meaſures by a ſilent vote. In theſe days of innovation, we, it ſeems, are to purſue a different courſe. When the reſolution offered this morning by my honourable friend from New York, (Mr. MORRIS) was taken into conſideration, not a voice was raiſed againſt it: this profound ſilence made us expect an unanimous vote—but (in conſequence he ſuppoſed, of ſome out-door arrangements) it was rejected by the ſilent majority. He had ſeen many deliberative aſſemblies, but never before witneſſed ſuch a procedure. He would not ſay whether this was reſpectful towards the minority, whom we have been told from high authority, have their equal rights; he would not ſay whether it was dignified, as it regarded the majority; but, without pretending to any ſpirit of prophecy, he would venture to ſay it could not be deemed politic or wiſe by the people of this country.

Mr. RUTLEDGE proceeded at conſiderable length: but the miniſterial ſide of the houſe remained ſilent as the grave.

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Mr. BAYARD. I thank God, if we have not the advantage of hearing gentlemen on the other ſide expreſs their opinions, we have ſtill the liberty of expreſſing our own ſentiments. Not knowing how long we may have that liberty, I will now ſtate further my opinion on the ſubject before the houſe.—He then proceeded with ſome further arguments.

Mr GODDARD ſaid—That he had until this time conſoled himſelf with an idea, that whatever meaſures might be adopted the preſent ſeſſion, he and thoſe with whom he acted, would at leaſt, have been permitted to underſtand the principles, upon which thoſe meaſures would be ſupported. This conſolation he had derived from a declaration, made at an early period of the ſeſſion, by an honourable gentleman from Virginia, (Mr. GILES) that œconomy of *information* was not what he wiſhed to be practiſed. But of that ſolitary conſolation, he had this day been bereft. We have already made ſuch advances in the ſyſtem of œconomy, as to have arrived at a point, where it is thought neceſſary to practiſe *œconomy of information*. He inferred this from the manner in which the reſolutions, which had been called up, had been treated.

Nothing was ſaid in reply to theſe remarks, but the queſtion being taken by yeas and nays, the reſolution was rejected, *fifty-ſeven* to *thirty-ſeven*. The following are the names of thoſe who voted againſt the reſolution.

ALSTON,	Fowler,	Leib,	S. Smith,
Bacon,	Giles,	Milledge,	Sprigg,
Biſhop,	Gray,	Mitchel,	Stanford,
Brent,	Gregg,	Moore,	Stanton, jr.
Brown,	Hannah,	Mott,	Steward,
Butler,	D. Heiſter,	New,	Talliaferro,
Clay,	J. Heiſter,	Newton, jr.	Thomas,
Condit,	Helm,	Nicholſon,	Thompſon,
Cutts,	Hoge,	Randolph, jr.	A. Trigg,
Davis,	Holland,	Smilie,	J. Trigg,
Dixon,	Holmes,	Iſrael Smith,	Van Cortlant,
Elmendorf,	Jackſon,	Smith, N. Y.	Van Neſs,
Elmer,	Johnſon,	Smith, Vir.	Varnum,
Euſtis,	Jones,	Joſiah Smith,	Van Horn,
			R. Williams.

57.

Mr. RUTLEDGE called up for conſideration the reſolution which he moved on Friday, on which the previous queſtion was then taken.

"*Reſolved*, That the committee of ways and means be inſtructed *particularly* to inquire into the expediency of reducing the duties on brown ſugar, coffee, and bohea tea."

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Mr. GRISWOLD hoped the resolution would be decided upon.

Mr. RUTLEDGE hoped the reference would obtain. These articles paid the highest rate of duties, and were of the first necessity. In looking over the rates of duties on import, he saw many articles that were taxed enormously high. Those in the resolution were of the first necessity, the duty high, and laid when they were at war prices; while the people received war prices for their produce, they could with convenience pay for these articles though high. The object of the resolution was merely to enquire, and he did not see how it could interfere with any object gentlemen have in view.

The ministerialists still observed the most profound silence.

Mr. DANA. I beg liberty to tender the homage of my profound respects, for the dignified situation in which gentlemen have now placed themselves, and congratulate them on their silence. There is something peculiarly impressive in this mode of opposing every thing that is urged. It is seldom that gentlemen have exhibited such a remarkable appearance of a philosophical assembly.

That dumb legislature will immortalize your name—is said to have been the language of a certain distinguished General to a certain nominal Abbé, who has been represented as having pigeon-holes full of constitutions of his own making.

During the memorable night, at St. Cloud, when the French Council of Ancients and Council of Five Hundred were adjourned—to meet no more; it may be recollected, the powers of the executive government were provisionally committed to three persons styled Consuls, and two of them were the General and the Abbé. From each of the councils, twenty-five members were selected to compose a commission, and assist the provisional consuls in preparing a constitution for France. Of the numerous *projets* of constitutions which were presented by the Abbé it is said no part was finally adopted, except the plan of a dumb legislature. This, the General instantly seized with apparent enthusiasm, exclaiming to the Abbé, *that dumb legislature will immortalize your name.* And it was determined to have a *corps legislatif* that should vote, but not debate.

It was scarcely to be expected that any thing like this would soon take place in our own country. But it is the prerogative of great geniuses, when in similar circumstances, to arrive at the same great results, although with some difference in the process. Nor can I forbear offering my tribute of admiration for the genius who has projected a mode of proceeding, among us that so nearly rivals the plan adopted in France. I know not to whom is due the honour of this luminous discovery. After ascribing to him however all merited glory, permit me to examine the

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force of the argument relied on by gentlemen in oppoſition to the propoſed reſolution.

Their argument is ſilence. I hope to be excuſed, if I ſhould not diſcuſs the ſubject in the moſt ſatisfactory manner; as ſilence is a new ſpecies of logic, about which no directions have been found in any treatiſe on logic that I have ever ſeen, it will be my endeavour to reply to gentlemen by examining ſome points which may be conſidered as involved in their dumb argument.

One of theſe points is—that certain members of this houſe have pledged themſelves to their conſtituents for repealing all the internal taxes. They may have declared their opinions to this effect, before their election; and being choſen under ſuch circumſtances, may now deem themſelves bound in honour not to vary. The terms aſſented to between their conſtituents and themſelves may therefore be viewed, by them as the particular rule for their own conduct. But is this houſe to be regarded in the ſame light with the Engliſh houſe of commons during the early period of their hiſtory when the knights of ſhires and the repreſentatives from cities and boroughs were inſtructed on what terms they ſhould bargain with the Crown for ſpecial privileges and were limited to the price agreed on by their conſtituents? The ſituation of gentlemen, who have thus pledged themſelves to vote for repealing the internal taxes, muſt be irkſome indeed, if on mature conſideration they ſhould believe it more proper and more beneficial for the country to have other taxes reduced.—Thoſe who have entered into a ſtipulation of this ſort, ſo as to feel it as a point of honour are ſo peculiarly circumſtanced that they might think it too aſſuming in me, were I ſo much as to expreſs a deſire that they would vote for reducing ſome of the duties on impoſts, inſtead of repealing all the internal taxes. It is to be hoped, the number of members, who have pledged themſelves in this manner, does not exceed twenty five or thirty.

Another point involved in this argument of ſilence is, that other gentlemen may have pledged themſelves to theſe, and given them a promiſe of ſupport on this ſubject. It muſt be acknowledged that this is more than was required on account of their ſeats in this houſe. If any gentlemen have abſolutely ſo pledged themſelves to others who had before pledged themſelves to their conſtituents, it muſt be indeed difficult to convince them. On this point their minds muſt be conſtituted ſo differently from mine, that there does not ſeem to be any common principle between us, that can be aſſumed as the baſis of argument.

Another point is, the executive has recommended a repeal of all the internal taxes, and not any reduction of the impoſt. And will gentlemen act upon this as a ſufficient reaſon for their con-

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duct? Is it now to become a principle that the executive is to deliberate, and the legiſlature to act, and that no meaſure is to be adopted unleſs propoſed by the executive? Would it not be better for the country to aboliſh this houſe, and ſo avoid uſeleſs expenſe, if it is to be nothing more than one of the ancient parliaments of France, employed to regiſter the edicts of a maſter?

The ſilence of gentlemen may alſo be conſidered as having relation to their great deſire for the harmony of ſocial intercourſe. To prevent its being diſturbed in the houſe by debating, they may have come to a determination, that all the great queſtions ſhall be ſettled by gentlemen of a certain deſcription, when met in nocturnal conclave, and be only voted upon in this place. If ſuch be the fact, it ſeems but reaſonable, that any of the members of this houſe ſhould be admitted, in meetings of the conclave, as delegates from the territorial diſtricts are admitted in congreſs, with a right to debate, although not to vote. If, however, this is thought too much, gentlemen ſhould at leaſt have galleries provided, ſo that other members of the legiſlature might be admitted as ſpectators, and have ſome opportunity of knowing the reaſons for public meaſures.

The queſtion was called for and loſt, yeas 35, nays 58.

END.

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CHARACTER OF THE WORK,

Extracted from the PURSUITS OF LITERATURE, *dialogue III. line 257, and the note.*

"But hark what ſolemn ſtrains from Arno's vales
Breathe raptures wafted on the Tuſcan gales!
LORENZO rears again his awful head,
And feels his ancient glories round him ſpread;
The Muſes ſtarting from their trance revive,
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NOTE, "See 'The life of Lorenzo de' Medici, called the Magnificent, by William Roscoe.' I cannot but congratulate

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Musarum spondet chorus, et Romanus Apollo.

Philadelphia, June 18, 1802.

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